104

SMALL BUSINESS ADMINISTRATION PROGRAMS AND TAX AND REGULATORY ISSUES IMPACTING SMALL BUSINESS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

OVERLAND PARK, KS, APRIL 27, 1995

Printed for the use of the Committee on Small Business

Serial No. 104–27

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APPENDIX

SMALL BUSINESS ADMINISTRATION PROGRAMS AND TAX AND REGULATORY ISSUES IMPACTING SMALL BUSINESS

THURSDAY, APRIL 27, 1995

House of Representatives,
Committee on Small Business,
Washington, DC.

The committee met, pursuant to notice, at 9 a.m., at Johnson County Community College, Overland Park, Kansas in room 232, the Honorable Jan Meyers (chairwoman of the committee) presiding.

Chairwoman Meyers. Good morning, ladies and gentlemen. Are you all hearing me all right? Is this coming through? All right.

The hearing will come to order and I welcome my colleague, Karen McCarthy of Missouri, who joins us today. In fact, I welcome her very strongly because I was a little late, but she was a couple minutes later than I was, so now I can use her as an excuse.

It will come as no surprise to this audience that small business plays a vital role in the economy of the region. The overwhelming majority of new jobs are created by small business. The Government support of small business is critical.

We of the Committee on Small Business take this responsibility most seriously. We are in the process of developing the Federal budget for the coming year and we are committed to reducing the cost and size of Government. Although the Senate did not pass the Balanced Budget Amendment, the Congress is working on this budget with an eye toward meeting that objective anyway. Besides, Mr. Dole in recent comments has said he has the 67th vote, so we better get on that blind path to a balanced budget.

As you may be aware, the committee has spent the early months of this new Congress holding an extensive series of hearings, reviewing issues that are critical to the health and growth of small business, ranging from tax issues to regulatory issues, to a comprehensive analysis of the Small Business Administration's Programs. We are gathered here to go to the source, the small businessmen and women of Kansas and Missouri, and the organizations and people who help them to succeed. It is here, rather than in Washington, that we will hear the most meaningful testimony on what works and what doesn't work. Our hearing this morning is focused on the SBA Programs.

Our first panel will discuss the SBA financing programs from the perspective of the borrower.

Our second panel will give the lenders' perspective.

The next panel will address the SBA's management and technical assistance programs. The morning will be rounded out with testimony from SBA's Regional Administrator, Bruce Kent.

In the afternoon, we will discuss tax and regulatory issues and close with an open forum panel which will help summarize the range of small business issues that we will hear about today.

Our format is quite straight-forward. Each witness on the panel will speak for 5 minutes and we'll have the little lights on to help kind of guide you and when the red light goes on, why you don't have to stop in the middle of a sentence or anything, but as soon as you can wind up, we would appreciate it, just because we have a fairly full day.

Once all the panelists have completed their testimony, we will ask questions and I know from experience that Karen McCarthy asks very hard questions.

You'll notice that there are colored lights on the table. I've already said that.

All the written comments, each of our witnesses have submitted, complete with any exhibits, will be made a part of the formal record which will be published as part of the proceedings of this hearing.

I want to thank in advance all of our witnesses for the time and effort that they have put into the comments that will be submitted to the committee. I want to assure all of you that we will read the whole of your prepared statement, if you do not have time to summarize it in the 5 minutes.

At this point, it gives me pleasure to recommend Representative Karen McCarthy for an opening statement, and I just want to say that I have enjoyed so much having Karen on the committee. It's very helpful to me to have someone on the committee that understands the local situation. It's helpful to me to have on the committee someone with such a broad background as Karen has.

Ms. McCarthy. Madam Chairman, thank you. Thank you very, very much. I am thrilled to be here. This is a very historic hearing and I comment you and your staff for holding it and the room is full of people who are going to, as you said, Madam Chairman, tell it like it is and let us know exactly what it is that we can do at the Federal level to make it better. That's what this Congress is all about. I'm proud to be a part of the historic 104th Congress because we are bent on fiscal responsibility, as you well know and that means we're going to learn to do things more efficiently and better, just as you've done in your own small businesses. So, what you share with us today will also help us a great deal in the Congress to meet those goals. I'm very, very proud to be a member of Congresswoman Meyers's committee. It's a fabulous committee and she has run it very, very well. We've had a series of hearings that have educated the committee on the small business community and administration and we are going to be looking very closely at ways to improve it for each and every one of you. That's why what you are sharing with us today will be most helpful.

Madam Chairman, I am truly honored to be a part of this effort. I commend you again for doing it and I know it's going to make a difference in our work in the committee.

Thank you very much.

Chairwoman MEYERS. Thank you, Karen. Our first witness today will be Keith Cowen, who is President of Airport Systems, Inc., of Overland Park, Kansas and Keith has worked with an SBIC, so we'll hear what his story is.

PANEL ONE: SMALL BUSINESS FINANCING--THE BORROWERS' AND LENDERS PERSPECTIVE

TESTIMONY OF KEITH COWEN, PRESIDENT, AIRPORT SYSTEMS INTERNATIONAL, INC., OVERLAND PARK, KANSAS

Mr. COWEN. Thank you very much, Chairwoman Meyers, Representative McCarthy and staff, for allowing me to speak to you today.

Airport Systems International is a leading supplier of aircraft navigation systems to airports and civil aviation authorities. In our short time in business, we've provided products and services to over 35 countries worldwide, improving safety, traveling safety for both American public and internationally.

This year we will generate approximate $18 million in revenue, approximately three quarters of that exported. All of our products are designed and manufactured right here in Overland Park.

Our company was formed in 1991 by a group of venture capital companies by buying the assets of a company that was operating in Chapter 11 bankruptcy. Our initial funding was a combination of SBIC venture capital, private venture capital and commercial bank debt.

I firmly believe that the SBIC venture capital was an essential piece to the financing of our company. I know from my early times with the company, trying to arrange traditional bank debt, the types of questions that I was asked, 3 years profitable track record, who is your management, let me look at your hard assets, let me look at your inventory, what could I do with that inventory, and of course, the answer was it's bits and pieces of navigation systems which does not excite bankers.

The other problem that made things difficult for more traditional financing was our international focus. People looked at our international contracts and local bankers had a hard time with that. So, for these reasons it was very, very difficult to arrange traditional bank debt.

I think if you look at private venture funding, our location here in Overland Park, Kansas and the relatively small size of the company and narrow market niche made it very difficult to attract the larger private venture capital funds which are more typically focused on companies in more of the high tech areas on either coast.

So for those reasons, I believe that the SBIC funding was an essential piece to the formation of our company.

Continuing our history, we completed initial public offering of our stock in November 1993. As a result of that offering, the SBIC, private venture and bank investment was all repaid with proceeds and we achieved a substantial capital gain for our initial investors. More importantly though it allowed us additional capitalization to continue our company's growth.

I think it's important to consider the economic contributions of Airport Systems International. We currently have 130 full-time em-

ployees herein Overland Park. Beyond that, we generate additional jobs throughout the country with our over $5 million a year in purchases from U.S. suppliers. This year we'll pay approximately $600,000 in Federal, State and local taxes and I think also very importantly we will generate approximately $15 million in positive trade balance for the United States.

Now all of these things, if Airport Systems was not formed, would accrue to our foreign competition, all these economic benefits. Our competition is in the United Kingdom, France, and Japan. So, I think that the SBIC Program played a very, very important part in our formation in allowing these benefits to accrue to the United States. For this reason I recommend the support, and strong support, for that program.

Thank you.

[Mr. Cowen's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Cowen. Our next witness will be Don and Linda Sladek, Coast to Coast Hardware of Independence, Missouri and they have worked, they are a 504 recipient.

TESTIMONY OF DON SLADEK, COAST TO COAST HARDWARE, INDEPENDENCE, MISSOURI

Mr. SLADEK. I'd like to thank Congresswomen Meyers and McCarthy for giving us the opportunity to come and give our presentation this morning.

We are literally small business by comparison. Our story kind of began as a family business back, I came into it in 1965. My father-in-law started the store in roughly 1961, I believe it was. We moved to this area in 1969. We moved to Independence, Missouri, that's where our store is located at. We looked at our marketplace and we started making a 5 year plan back in 1982 to see where we might go in the business and stay a viable business in the marketplace. Realizing that the price of rents were going where they were, we took the option to build our own building and so consequently we've initiated that plan.

As we started the 5 year process in '82 and in 1986 we hired an architect. We completed the building plans and during this process I was keeping in contact with my bank at all times. Everything seemed to be go right down to the final point of where we were going to start the project. On the Friday night before we were going to start doing the digging, on Monday morning they called and said they wasn't interested in the loan anymore. They said they felt it was going to be too close. So, at that point we had to start scrambling again. I contacted several other financial institutions. We didn't really have very much available. I finally contacted a family member, I was visiting with them and they mentioned the 504 loan. It was a rather new loan at that time. They told me to contact Mr. Gary Thomas or Guaranty State Bank of Kansas City, Kansas at which point we did. They came out the following Monday morning and it was a very commendable day. Mr. Mike Johnson and Gary came out and they sat down and we had an afternoon session. We went over all of our plans. They discussed the 504 loan program to us, told us how it worked. They, in turn, contacted Rural Missouri, Inc. A representative from that location came to our busi-

ness. We had another session of probably about 2 to 3 hours, getting everything together. I was warned many times the SBI loan program was kind of tough, but I really didn't find that was the way it was for us. It worked very smoothly.

The Guaranty State Bank knew how to handle the paperwork and with Rural Missouri coming in, their portion of the paperwork was handled very smoothly and at that point they told us it would be approximately 6 weeks before we had final approval and it really stayed right on course. That was amazing it happened that way because I was told many times that it wouldn't be that quick.

I think the 504 Program—we built a building in Independence, Missouri that was out on the eastern edge of town and I know you're familiar with the area. It was in kind of a blighted area and we did really improve that area and the city of Independence right now has a 24 Highway Committee which I am part of that at the moment and they are making some major improvements out there and we're going to see more things happening in our end of town and if it hadn't been for this SBA 504 loan, I think we would have been severely restricted in how we would have operated our business in town. We have a nice size building and if we was to pay rent on that building today, a hardware store couldn't exist in that.

Our business is the type of business that serves the community. It does generate around $20,000 a year in taxes to the community and it—our biggest asset, is, of course, the everyday contact with the individuals that are coming into our store and they're our customers.

I don't know of anybody that hasn't been refused a 504 loan or anything like that. I feel like that it is a very good program and it's been very beneficial to us and we've been very satisfied with the way Guaranty State Bank has handled it for us.

I would just like to express my appreciation for those people who have been involved in helping us get where we are today. We are a growing business and I do feel that we will be a viable business in our marketplace for quite some time to come, even though we're not going to be big, big, big. That seems to be the way everything is going today, the bigger the better, but we don't quite feel that way.

I would like to thank you for this opportunity that we've had to share with you this morning.

Thank you.

[Ms. Sladek's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you for being here. Would you like to add some comments, Linda?

Ms. SLADEK. I think he said it pretty well. The only thing we did bring is just a larger enhancement because we couldn't get the front copied.

Chairwoman MEYERS. Good looking building. For those of you who are here today who don't know, the 504 Program is primarily bricks and mortar lending and we're very pleased. It's obvious that you've not only built a business, but you've made a contribution to your community as well.

Our next witnesses are Bill and Monica Goble, the Snack-eze Convenience Store, Bonner Springs, Kansas. Monica isn't here, I see, but is she in the audience?

Mr. GOBLE. No, she's not. We just adopted a little girl from Korea, so we're adjusting to parenthood right now.

Chairwoman MEYERS. Well, congratulations. Bill, we're very glad to have you here with us today and you are talking to us about a 7(a) loan.

Mr. GOBLE. Actually, it's going to be a 504.

Chairwoman MEYERS. All right, 504.

TESTIMONY OF BILL GOBLE, SNACK-EZE CONVENIENCE STORE, KANSAS CITY, KANSAS

Mr. GOBLE. Ms. Meyers, Ms. McCarthy, thank you very much for allowing us to be here.

I wanted to kind of start with, our story is like many other Americans and that is we want to be self-reliant, we want to be self-sufficient and we want to be our own boss. A couple of years ago as we moved into our community that we live in today,there was a need and the need was for a convenience store. So, my wife and I, knowing this, started out and got a consultant, did a site survey study on a location that we wanted in which these are not very cheap items. Then we went ahead and purchased the property. Well, thinking that we had all of our ducks in a row, if you will. We started out on the task, or the journey, of finding a lender that would support us, so we went to over a dozen banks and during this journey we found that working with a lot of the—you will see in my notes—tunnel-vision bankers that we dealt with, it was very, very hard to acquire an SBA 504, even though you have 28 to 25 percent already invested. Some of the responses that we got were, number one, why would we want to do it, how could we do it, and how did we make the money to do it?

So after we went through so many banks, we knew deep down in our hearts that this was the right thing for us and for the community and we weren't going to be swayed. So, as luck has it, we made contact with Guaranty State Bank and Avenue Area, Inc. which is a development company in Wyandette County. The other thing I might add too to the banks that we went to and these are some of the largest banks in Kansas City, our county, as you all know is Wyandette County and when you say that to a lender that is not in the county that is two strikes against you. So, it's very, very tough to get a loan when you mention where your location is, this type of thing. But fortunately, going to the bright side here, we met with Gary Thomas and Guaranty State Bank. He didn't ask us the silly questions that we had gotten so many times before. He reviewed our packet, reviewed where we were coming from. He had the vision to look past, same way with Tom Overby at Avenue Area, Inc. He was also like-minded in that he had the vision, if I may quote Steven Covey, in his "Seven Habits of Highly Effective People," one is to "seek the end in mind" and I will testify today that Tom Overby and Gary Thomas and ourselves had that. We knew what the end in mind would be and we strove to do it.

Our bank stepped up at times when the packager wanted more and more and more from us, more dollars, more information and said enough is enough. If I could coin the phrase that Nancy always said, he just said no. Tom Overby, when we ran into a problem with a packager that didn't see eye to eye, that didn't think

we could do it, didn't phase him. He grabbed a hold of another one and we just took off. This was the refreshing part after a long journey is to come home and Guaranty State Bank is in our county. They know us. They know where we're located so this was a very, very positive plus for us. But the real benefit now comes from taking a building that was dilapidated, that had dozens of businesses in it that failed, that was sitting on the Wyandette County tax role with back taxes of over $13,000. We have taken this building with the help of Guaranty State Bank and Avenue Area and turned it into a facility that employs nine people, that pays over $12,000 a year just in property taxes and now serves the community that is very, very happy that we're there. We're happy that we're there and we do other things. We sponsor the Police Department. We sponsor all the local schools, so I guess we're just kind of a small home town SBA 504 victory.

We have other customers that come into the store that are dealing on 7(a)'s and trying to work through 504's and we try to encourage them and give them hope and direct them to the right people now. But that is all I have to say and I do appreciate your time.

[Mr. Goble's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much for being with us today, Bill.

Our next witness is Caroline Salyer. She is a 7(a) recipient. Is that right?

Ms. SALYER. Yes.

Chairwoman MEYERS. All right. She has Santa Fe Optical in Lawrence, Kansas.

Caroline?

TESTIMONY OF CAROLINE SALYER, SANTA FE OPTICAL, INC., LAURENCE, KANSAS

Ms. SALYER. Thank you, Ms. Meyers. In April of this year I finally received my loan from SBA which was a fraction of what I had applied for. I had applied for $60,000 and it was dropped down to $25,000. Most of my problems were at the district level, I believe. I finally had to go to the regional level for help and there's where I found Linda Ruche who was a big help to me. It seemed each time my loan process got stalled, I could call Linda and she helped me.

I do believe there is a need for the SBA 7(a) loan in small business, but I think there should be some changes. I mean I really do not understand the whole loan process. I think it could have been explained to me where I could have understood it a lot better.

There's some things that I thought were unreasonable. I was required to have a $25,000 life insurance policy which is for my loan. I don't feel like I was given enough working capital. I was given $5,000 out of the $25,000 and it's just starting out in a small business, that's where I really need my working capital. I need the working capital. But I opened my doors without an SBA loan. I mean I had family money and money from friends and family so I went ahead and opened my doors. I could have probably opened sooner had I gotten my SBA loan sooner. I just felt like the time lapse was a little lengthy.

Basically that was my problem. I think the time that it took to get the loan and really not understanding the entire loan process.

Chairwoman MEYERS. Tell me, I'm not quite sure I understand, Caroline, you got a $25,000 loan.

Ms. SALYER. Yes.

Chairwoman MEYERS. But you say you had $5,000 working capital?

Ms. SALYER. That loan was divided into inventory, machinery and working capital. I needed the most money, really, in working capital, but they chose to put most of it in inventory. My inventory, I can get on a consignment basis and pay for it only as I need it.

[Ms. Salyer's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you for explaining that to me. I appreciate it and we are grateful for your testimony here today.

Our next witness is Jerry Darnell and he also is a 7(a) applicant. He is with Avis Furniture Company in Kansas City, Missouri.

TESTIMONY OF JERRY DARNELL, AVIS FURNITURE COMPANY, KANSAS CITY, MISSOURI

Mr. DARNELL. Thank you, Chairwoman Meyers and Karen McCarthy for allowing me to speak to House of Representatives Committee on Small Business.

As you said, my name is Jerry Darnell. I'm the chief financial officer of Avis Furniture Company. We're located in Kansas City, Missouri. I feel I am qualified to present my ideas for the following reasons: First, I have a lifetime involvement with family business starting at the age of 10. I've been a commercial lending officer at several banks specializing in SBA banks. I've been an SBDC counselor at Johnson County Community College specializing, working with startup businesses. I've been an instructor here at Johnson County Community College in the business department teaching entrepreneur classes, and I own two small businesses.

I have two specific points that I wish to make. Number one, this country was founded on small businesses and its future is going to be with small businesses. The focus needs to be on businesses that first, have a product; second, have customers; third have the ability to repay the loan; and fourth, are providing jobs to the community.

My second point is that I want you to understand because the regulatory practices over the last 20 years, banks have lost their zest and willingness to take on risk. They've forgotten that people repay loans, numbers don't.

Allow me a brief story to underline my points. As I said I'm CFO of a manufacturing company. We're low tech, hands-on. Our products are the booths and table tops that are used by restaurants throughout the country. We have some nationally known restaurant chains as customers, as well as many small individually owned restaurants. My partner and I purchased a going family business 2 plus years ago. We have converted the company to operate as a business at a much higher sales level. This conversion took time and money.

Our sales this fiscal year will more than double the previous fiscal year. Over the last 12 months, our growth rate has exceeded 70 percent and by the time Christmas rolls around this year, we will tack on another 50 percent on top of that 70 percent. Two

years ago, we had 14 employees. Recently our payroll was triple that.

During this growth period our ratios, those little number guidelines that banks love so well, like gross profit, ours exceeded the industry average by better than 5 percent. Our net income was twice the industry average when annualized.

Yes, we're typical. SBA loan customer meeting weekly payrolls and dealing with ridiculous volumes of paperwork. Occasionally, we see a logical answer to our problems. We would have preferred a line of credit to handle this growth, however, our bank did not accommodate our request because the SBA had reduced its guaranteed loan ceiling from $750,000 to $500,000.

I'm positive that we would have received an identical response from any SBA lender in the country and that response is because the SBA lowered its lending limit from $750,000 to $500,000, we cannot justify the exposure.

My point is performance above acceptable levels for a reasonable time period, proven ability to perform on the debt service and providing jobs was not good enough to convince commercial lenders to step up and take a risk.

Another point, without the security developed over a 40-year period of time by the SBA, lenders will not take the risk. It won't risk the wrath of the regulators or their own stockholders. Money in their pockets is paramount to the potential community benefit. Whether the Government likes it or not, they have a direct and vital impact on the development of small businesses.

My challenge to you is to see that loans are made to companies who have a product that is in demand, have customers, can repay the loan through cash flow and can provide jobs for the community.

Also, to increase the guaranteed limits to an appropriate level and to provide operating lines of credit with the flexibility to handle timing differences without the cumbersome paperwork required by people who don't understand it, and tend to use it as a reason for denial of credit rather than approval of credit.

Be assured that this country is full of quality business people who can be major contributors to our economy. They have an immense pride in their abilities, in their products and they are horribly hampered by the lack of common sense which seems to have taken over the major institutions of our country.

I've got a few seconds left. Questions are probably how this can be carried out. I'm going to skip through part of my presentation. But the cost of borrowing seems to be one of the major bottlenecks, and major expenses that really pull down small businesses. It's the interest rates that are being charged these people, our company included. If there was a way to—and we're the beneficiaries of the program. We are the beneficiaries—the Federal Government is, the State government, the local government and the communities around the businesses. If we could have a fixed rate type loan that never went up, but only went down if the market went down, then we can put that money back to work in our businesses and make sure our employees are paid and that we meet our suppliers' requirements and that we can share that profit with those employees in 401(k) Programs. Then the bankers and these Wall Street gurus

who are probably manipulating our interest rates are still going to get the benefit of these monies.

So in summary, I think that I would like to see the Government step up, get some local sharing on this. They don't have to use all Federal money. Quit spending money overseas. Let's bring it back home, put it to work for our people here.

Thank you.

[Mr. Darnell's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Darnell. We're very pleased to have you here with us today and I would like to start with a question to Keith Cowen and then I think we'll take turns, Karen.

Keith, how difficult was it for you to get an SBIC investment and did several SBIC's participate? What was the total SBIC investment?

Mr. COWEN. Well, it took a great deal of vision on behalf of the SBIC's as well as the other investors to put this financing package together. It took some creativity to put the program together, but I think in that they were in the venture capital business, they had a greater appetite for risk than say a more traditional bank loan. There were three SBIC's involved in our company, Kansas Venture Capital, Midland Capital Corp. Capital for Business, along with one private venture firm and the total venture or the total SBIC participation was approximately $2 million between $2 and $3 million.

Chairwoman MEYERS. Thank you very much. How long did you seek this? In other words, was this an arduous process? Do you have any, I guess maybe, as time goes along, ask this of all of our witnesses, do you have any suggestions as to procedures that would improve the process from the point of view of a borrower?

Mr. COWEN. Well, the process for was not terribly onerous. It took probably 3 months from the time we started to put together a business plan to the time that we had venture capital investment and I think having the SBIC's as kind of a go-between between the SBA financing and the company doing the borrowing or the recipient of the investment, certainly helps in that they are used to operating a little bit more quickly and in the smaller companies, smaller entities they can deal fairly quickly.

I personally can't speak to how long it took them to arrange their agreement with the SBA to form the SBIC, so that might be a question that some of the SBIC's can answer directly. But from the recipient investments point of view, it worked really quite well. They were able to react quickly which they need to do when they see an opportunity to move out and get it funded quickly. So, we were pleased with that.

Chairwoman MEYERS. Thank you very much. Congresswoman McCarthy?

Ms. MCCARTHY. Thank you, Madam Chairman. I would like to explore with Caroline Salyer and Jerry Darnell, since they experienced the 7(a) Program, some of the changes that the administration has been making in the program of raising the amount of the 7(a) guarantee, abolishing the 7(a) subsidy rate, all of this is designed, hopefully, to make more loans available with fewer dollars.

But the administration's proposal also calls for a new annual fee on SBA guaranteed loans, 30 basis points on gross loans under $100,000 and 40 basis points on loans above that amount.

Would you reflect on these new fees and my question is do you think that that will discourage individuals such as yourselves from participating in the SBA loan program if the fee is passed along to the borrower?

Ms. SALYER. I know when I applied at the First Bank in Kansas City for my loan, I had already filled out the 7(a) loan papers. Then I was charged $500 for a third party to come in and that I thought was kind of unreal.

Ms. MCCARTHY. Thank you for sharing that. We'll hopefully have some comment on that from representatives of the administration.

Mr. DARNELL. I don't mind the loan fees, I understand the loan fees. I think 1 percent is probably a fair number. I don't understand the higher fees. I'm not interested in buying a new building for someone. I'm interested in getting our company running correctly and I think any company worth its salt is going to put its assets in the company up, but I don't think they need to put everything else they own up. We're willing to pay the fees if they're reasonable.

Ms. MCCARTHY. Madam Chairman, I didn't mean to preclude any other panelists from commenting on that question, but I did feel it was exclusive to the 7(a) Program, but I would welcome any input on these kinds of issues.

Chairwoman MEYERS. Thank you. Karen, I do think that there are some additional fees that will be suggested for 504 borrowers, but if I could just follow-on for a minute.

Caroline, I recognize that the reason that these additional fees are being requested is because as we are on a glide path to a balanced budget by 2002, we're going to have to try to do more to provide services for people with less money and so what we're trying to do is to get the default rate or the amount that Congress has to appropriate to as low as possible for 7(a) loans or any of these loans and so that we can continue to lend money to raise that ceiling that Mr. Darnell mentioned from $500,000. We had to lower it because our money ran out from $750,000 to $550,000 and hopefully to get it back up and possibly to $1 million and so that's the reason for the additional fees, but my question to you is you went to the—as I understand what you're saying, you went to the bank, you were turned down for the loan. Did they suggest that you use the packager to redo your loan?

Ms. SALYER. They suggested that I use the packager to turn the loan in. I had already filled out the 7(a) loan papers. I had the complete packet filled out. They did not want to use my packet. They wanted to use a third party. They said they always used a third party to do the loan processing.

Chairwoman MEYERS. Well, I think I would like to hear a little bit more about that. I mean I was aware that it happened, but I wasn't quite aware of the process that was involved.

Mr. Darnell, would you comment on that?

Mr. DARNELL. Well, I didn't need a packager because I had the experience to do it myself, but a lot of banks don't have the people to do that. They don't understand the process and quite frankly,

they don't have time. It's a pretty busy business world out there for those folks and they want someone else to put the numbers down on the page for them. I think there used to be a limit of what you could pay a packager and I don't know what it is today, but most of these people are a lot of ex-bankers or SBA people who that's their source of income. So, and there's probably a little working back and forth on the deal.

Chairwoman MEYERS. Well, maybe we can ask some questions of the lenders and when this is necessary and when it isn't necessary.

Did SBA suggest that you work with other resource partners, Caroline, such as an SBCD to help you with that loan process?

Ms. SALYER. No.

Chairwoman MEYERS. Karen?

Ms. MCCARTHY. Actually, Madam Chairman, I'm going to reserve any other questions until I've heard from the second panel. I think that will probably answer some of my questions and take less time of the committee.

Chairwoman MEYERS. Mr. Goble, I have one final question I'd like to ask of you.

If you don't mind telling us, how much did the packagers charge you for preparing your loan package?

Mr. GOBLE. I don't have the fees with me, but my recollection is that we were doing a percentage based upon the overall loan amount. I'd have to get those figures for you. That really wasn't a concern of ours because we knew once we got this capital, then we could start generating revenue and paying for this so the fees were really not a hindrance. What the hindrance was, was a lot of the banks and the institutions coming back to us stating they could not loan us the money based upon auditors, bank auditors, Government auditors, whoever these auditors were. A lot of these banks came back and said they would look down upon this. We got that more than just one. I stated that we've gone to 12 different lending institutions and these are major players in the Kansas City area. You know, we're looking at a family owned business. We come to the table looking for less than $700,000 on a loan and we're already sitting with capital in the venture of over $125,000. To a bank person coming back to us saying well, could you put another $50,000 to $100,000 in and we can do it. That's unrealistic.

But that's the problem. The other side is the packager would sometimes want more, so when he presented it to the SBA panel, it would actually look better. I don't know how to express this or explain this, but he wanted more than what was really required.

Chairwoman MEYERS. More information, you mean? More background?

Mr. GOBLE. More money, more capital.

Chairwoman MEYERS. Oh, more capital.

Mr. GOBLE. Which is great, but when you've got everything on the line, why you cannot do any more and that kind of made it a hindrance, a time hindrance because you have seasons that you have to be up and running. In our area there's concerts, this type of thing. Once you miss out on certain seasons, you miss out on a lot of revenue generated for the community, for ourselves, for the State.

Chairwoman MEYERS. Well, we appreciate very much all of our witnesses having been with us this morning. You've all indicated that you have hired people. Some of you have tripled your employment because of your loan and your ability to expand. At least one of you has mentioned that without that loan, without that business, the business would have gone to foreign competitors, so it was business that was kept in this country and you've improved your community and we're very proud of all of you. We also would like to tell you that we have listened to your concerns about the process and that's principally what we were here for this morning and there are SBA people, lenders, who are with us. I think we all want to improve the process and so we appreciate your being with us very much. Thank you.

If panel two would please come to the table at this time? We have Bill Reisler on the left, Gary Thomas, Rob Park, and Deryl Schuster. Where is everybody? There's Rob. I know Deryl is here.

I will tell the witnesses that I've been told by my staff who is in the back of the room that some of the witnesses were a little difficult to hear because they were a little too far from the mikes. The mikes are very directional. If you practically swallow them you can hear very well and if you're 6 inches away, it kind of diffuses and they don't hear in the back of the room as well, so try to get close to the mikes. We're very glad to have you here today and our second panel is made up of small business lenders and we're very happy to have them here and our first witness is Bill Reisler. He is with Kansas City Equity Partners which is an SBIC and we're glad you're here, Mr. Reisler.

TESTIMONY OF BILL REISLER, KANSAS CITY EQUITY PARTNERS, PRAIRIE VILLAGE, KANSAS

Mr. REISLER. Thank you, Chairwoman Meyers and Representative McCarthy. It's a privilege to be here. I appreciate the invitation. Today, I will be speaking in my capacity as a founder and principal with Kansas City Equity Partners. We're a venture capital fund based here in Prairie Village. Locally, that doesn't sound that unique, but I can tell you when I go to New York or other places, it's lots of fun to say that I'm from Prairie Village, Kansas.

Chairwoman MEYERS. I get the same reaction to Overland Park.

Mr. REISLER. Our fund is an early stage equity investor. To differentiate just for a moment between the rest of the panel and I, we do not secure assets. We buy stock in companies. So, at an early stage in a company's growth when the primary asset is the team and an opportunity, we are often the only source of capital.

Kansas City Equity Partners was founded in 1993. It was licensed as an SBIC in 1994 and we were among the first in the Nation to be licensed, using the participating security. There are four points that I want to go over today for you.

The first point is that we strongly support the committee's mission. Lowering the cost of Government is a good mission. With that, improving the quality of programs is also a good mission. The second point is that we believe the new SBIC Program is on course to achieve those objectives based on the good work that was done by the Investment Advisory Council which I'm sure you're familiar with, in 1992. The SBIC Program went through a rebirth with

these new regulations and we looked at them very hard about a year ago when we decided to seek licensing.

There were several aspects of the new SBIC Program that we were encouraged by. The first is the tough licensing criteria. We did not, as a private fund up to that point, want to be associated with a program that experienced high liquidations, that had embarrassment of any kind that might in any way wash off on our limited partners.

The second aspect we found important was the stringent monitoring, after being licensed as an SBIC. Again that's part of the new regulation.

The third aspect was the increased capital requirement. When you look at the historic SBIC Program, there are too many liquidations and the majority of them are very small capitalization, SBIC's. Those no longer can be licensed, which hopefully has eliminated the majority of the liquidation problem.

Finally, the most important aspect of the new SBIC Program was the participating security. The participating security solved two problems for us.

We are a long-term equity investor. We do not seek a current yield on our investments so we don't receive any interest rate. To have to pay an interest rate to the SBA when we don't receive one is a mismatch of securities which can be disastrous and oftentimes in the history of the program, it was disastrous. The elimination of an interest payment for the security was the first big achievement.

The second big achievement has to do with the ability of the security to participate in the upside of the fund. The reason that's important is that venture capital, when you bet on opportunities and people, doesn't always work. Some deals are not going to work. Some funds are not going to be successful. When the only compensation is an interest rate, the SBA does not have enough upside out of the winners to pay for the losers. The participating security participates in the profits of a successful fund and we felt very confident that this could work.

The most important aspect of the new SBIC Program to us was that the participating security would achieve a zero subsidy rate. As we approached the program, we did not have interest in or tolerance for being subsidized by Government. That was not our ambition. Our ambition was to have as a co-investor with our private investors, the SBA. We do not intend to cost our investors' money in any category and we believe that the participating security was structured to allow organizations like us to achieve that objective.

The third point I want to cover is regional importance of the SBIC Program. Right now there are only four investing institutions like us anywhere in the region. All of them are SBIC's. The impact of not having the SBIC Program is difficult to measure. On the other hand, it's easy to see that the program has been warmly embraced here in the region.

It's also important to note that to my knowledge there's never been a liquidation of an SBIC anywhere in this region and so it's been a successful program here.

I want to spend just a minute on regional fund economics, to talk about why the SBIC Program is so important to regions like Kan-

sas City. We are an early stage investor. Early stage investors need to be close to companies so the only way you can make an early stage investment in Kansas City is to have a fund in Kansas City. When you try to determine what the size of that fund should be, it should be around $30 million to invest in our region. That cannot be larger, because the deal flow in this region, honestly, wouldn't support a larger fund. It should not be smaller because the operating economics are just too darned expensive. So, that's the optimum number.

The way funds work is that we select our investments over a period of 3 to 4 years and by the end of 10 years, we'll have to bring those to maturity.

At the end of 3 or 4 years, we're not making new investments in the community. So, in order to maintain a presence, we raise a second fund. Upon raising that second you now have gone from $30 to $60 million. You can work the numbers over a 10 year fund to figure that, in fact, we need $90 million of capital to make a program work like ours in the local economy. The largest source of capital for venture funds comes from gatekeepers and pensions nationally who usually invest in lots of $2 to $5 million. They like to be less than 5 percent of a fund which means they need funds that are bigger than us, so we do not have that source of capital. The result is that without the SBIC Program, we cannot hit that optimum fund size using available private investors in the region.

The regional economic development impact has been demonstrated by the first panel. Airport Systems is a company that was SBIC financed. We're in the business of trying to take businesses like Airport Systems from startup to an excess of $20 million in revenues.

Finally, I think the most important point is that the new SBIC Program has only licensed organizations like Kansas City Equity Partners. We are all committed to provide the SBA a return on investment and not to earn a subsidy. We're a zero cost program. In the written testimony that we've provided, there is a letter from Kansas City Equity Partners, including our advisory board, which includes many of the leaders of the largest corporations in the region. Our belief in the program and our commitment to you, is well stated. We are intending to provide you a good return, not to use a subsidy.

Thank you for your invitation today.

[Mr. Reisler's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much for being with us. Our next witness is Gary Thomas, a senior loan officer, Guaranty Bank and Trust, Kansas City, Kansas and he has worked with the 7(a) and 504 Programs.

TESTIMONY OF GARY THOMAS, GUARANTY BANK & TRUST, KANSAS CITY, KANSAS

Mr. THOMAS. Thank you, Chairwoman Meyers and Congresswoman McCarthy. Thank you.

It's a pleasure to be here today. I'm actually kind of here representing, I guess, Tom Overby, the executive director of Avenue Area, Inc. who was originally afforded the invitation. Tom could not

be here. He's in San Francisco attending the National CDC Convention.

Guaranty Bank has been involved with SBA lending for most of the past 20 years. I've been directly involved for the past 10 years. I've seen the quality of service offered by the SBA improve considerably the past 10 years and I believe that both locally and nationally, the SBA has made a commitment to develop new programs and revise existing programs that continue to assist the small business concerns compete in today's market environment.

I am a proponent of the SBA 504 lending program. We have had seven 504 loans approved of which we have funded six. In every instance except one, the small business concern did not have access to the capital required to complete the project without the assistance of the 504 Program. The 10 percent down was the key that assisted them in completing the project. I believe the 504 Program creates a win-win situation. The small business concern can get into a fixed asset project of considerable size for 10 percent down. The bank acquires the first security position for 50 percent of the loan. Obviously, the small business concern acquires 40 percent of the capital at a favorable fixed rate over a 10 to 20 year term.

I believe the SBA wins by having their risk reduced from a more traditional 85 percent guarantee to a 40 percent exposure into the venture. The local economy wins, through creation of jobs, the local tax base is increased and in some instances as I think we heard earlier today, we're sometimes cleaning up a blighted portion of our city and it seems to work to everyone's advantage.

I believe the SBA 504 Program could be improved with only a few changes. One of those I just recently became aware of is a situation whereby a CDC, one of the more experienced CDC's, through a program known as ALP could submit applications which would reduce the SBA processing time. I understand that's under consideration at this time and I would recommend adoption of that program.

The banks, of which we are one, can submit applications as a CLP and get 3 day turnaround on our approvals. We do more of the underwriting, and the credit analysis and in return the SBA gives us better turnaround.

A program of that kind for the CDC's would be very helpful in cutting down that turnaround time for approvals.

A second recommendation would be that the 51 percent occupancy rule for existing buildings be relaxed somewhat. The reason I say that is, that communities, especially ours, Kansas City, Kansas have a fairly large inventory of existing buildings. Many times, a small business concern can find a building that they can grow into, but they cannot meet the occupancy rule initially. Possibly the local offices could be granted some leniency in relaxing that rule from time to time to let a small business concern get into an existing building, rather than have to find another building or build another building somewhere else.

I personally believe more lenders should use the 504 loan program as opposed to the 7(a). I realize that it doesn't always offer the profit potential. A secondary market is not obviously there for the guaranteed portion and I think sometimes we, as lenders, will use the 7(a) Program because the turnaround time and/or the pos-

sibility of selling the guaranteed portion of the secondary market, rather than looking at the 504 Program. I think we should consider the 504 as an alternative to financing fixed assets through the 7(a).

The 7(a) Program has been very good for us. We have helped many small businesses and we presently have 47 on our books. I know that we have either helped them retain or create several hundred jobs that probably would not be there without the SBA's assistance.

The LowDoc Program has been a good program thus far. There is some confusion about the program, especially to the small business concern. They truly believe they can come to the bank, fill out a 1-page application and get an SBA loan. We know that's not true. They don't always understand when we have to ask for more and more information. I think we're overcoming that and I think the program will probably get better as it goes. We have to document our files, obviously, with credit information. So, it's a matter of us educating the prospective borrowers as to what we really need.

It is a 1-page application. It's a good application. We like it. We use it and it has proven to be a good program.

Two general suggestions, the first of which deals with the tax return transcript verification requirement. It's been on the books for 8 or 9 months now. While we've not had a great deal of trouble with it, I also don't put a great deal of stock in it. I don't really see that there's any guaranty that if a fraudulent tax return were submitted to us that that same return probably wasn't submitted to the IRS. I don't know of a single instance where we've had a return submitted to us that didn't verify. It has held up one of my closings for about 3 weeks. I'm sure that's probably just the timing involved. It was submitted the first part of April and I'm sure the IRS is very busy.

There's also a personal liquidity ratio limitation that states that a prospective borrower or guarantor cannot have more than $50,000 in personal liquidity. Otherwise that money has to be liquidated or placed into the business in the form of equity. Sometimes when a parent or relative is considering investing in a business, possibly owned by their relative, they don't want to have to liquidate assets. They want to be able to help, possibly provide a guaranty, but they may have $75,000 and they don't want to have to liquidate $25,000 to put in a business that is basically passive investment for them. I would like to see consideration given to possibly raising that limitation to $100,000.

The initiative to reinvent the SBA, I think has some good points, as opposed to some of the earlier testimony raising the guaranty maximum from $750,000 to $1 million. I don't necessarily support that. Most of the loans in this area could probably live with a $500,000 guaranty. Possibly, you would want to consider raising the debenture amount on a 504 to $1 million and possibly reducing the 7(a) guaranty to $500,000.

I think our average loan is about $130,000 under the 7(a) Program. We really don't see a great need for an increased guaranty there.

The fees, I believe, would prove onerous. There are fees for the small business concerns. There are fees for the banks. The proposal is to add the guaranty fee to the gross amount of the loan rather

than the guaranteed portion. That would add substantially to the cost and even though the fees are normally financed in the package, I'm not sure that it really would be worth the extra cost to the borrower and, of course, to the bank.

In summation, our bank has enjoyed a very good relationship with the local SBA office. The local district and regional offices have provided us with support, I think, sometimes far beyond what can normally be expected. The caliber of personnel and quality of service has improved. We view our local office and its leaders, as partners with us in assisting small business concerns in achieving their potential.

In an economy where big Government regulation is everyone's concern, I can truly state that we believe in the SBA. It's a vital agency, focused on delivering products that enable small businesses to thrive in local communities and it is a Government agency that works.

Thank you.

[Mr. Thomas' statement may be found in the appendix.]

Chairwoman MEYERS. All right. Well, I think you very much for your comments, Mr. Thomas, and I know I have some questions for you and I'm sure Ms. McCarthy will also.

Our next witness is Rob Park and Rob is with—Stan Ricketts, you are commenting, you're just going to——

Mr. RICKETTS. We're together.

Chairwoman MEYERS. All right. Rob Park from Commerce Bank in Lenexa, Kansas. They have worked with the 7(a) Program and the SBIC Program. Is that correct?

Mr. PARK. Actually not the SBIC, but we have worked with the 504, the 7(a) and the LowDoc.

Chairwoman MEYERS. 71, 504 and the LowDoc.

Mr. PARK. That's right.

Chairwoman MEYERS. All right, thank you very much, Rob.

TESTIMONY OF ROB PARK, COMMERCE BANK, KANSAS CITY, KANSAS

Mr. PARK. Well, thank you first of all for giving us this opportunity to come before you and give you our thoughts on the SBA. Stan Ricketts and myself have both been active with small business in Commerce Bank and in the Kansas City area for the better part of 3 years, focusing our calling efforts, our business development efforts on the small business arena.

I think it should be noted that in the early '90's, up to this point, banks of all sizes, large, money-centered banks, middle size banks which we consider ourselves and small banks, the local community banks throughout the country, have become focused on small business and I think that's a point that certainly should be made because before 1990, I'm not sure that the commitment from the larger banks was there like it is today.

The points I'd like to make is that Commerce Bank first of all has been active with the SBA since the SBA's initial inception. Prior to 1993, however, we were making very few loans through the SBA guaranty program, certainly no more than 5 in any one given year. In 1993, part of our own focus in the small business, we created a position which I'm filling which is coordinator of small

business lending. We then set out to develop SBA products or SBA loans in the Greater Kansas City area and make a concerted effort to increase our SBA volume. We did all this without being a certified or preferred lender. In 1993, our loan volume jumped to eight loans, SBA loans, that is. In 1994, it jumped to 11, almost half of which were the 504 Program. The first quarter of this year, we've done 12. So, our trends are increasing each and every year and we expect them to increase.

As part of our increasing effort into small business, I should note that beginning of this year we took our city and divided it into the five regions. We have a north, south, east, west, and a midtown region and we empowered one person in each of those regions to become the SBA guru, for lack of a better word for Commerce Bank in that region.

Chairwoman MEYERS. I like that, SBA guru.

Mr. PARK. Those people are responsible for developing SBA loans for our bank within those specific regions. We think that's a large reason why our volume has increased.

The point I'm getting to or leading to is that we're doing this without being a certified or a preferred lender. I think there are probably other banks around the country that aren't a certified or preferred lender because they hadn't focused on it before and with the growing focus on small business, banks of all size have tried to find some way to attack efficiently the small business market and provide products and services to that market.

What I would suggest, I guess, as my first point to you all would be that the certified and preferred lender status program be evaluated on a continual basis, whether it be on a 1 or 2 year basis where the SBA looks at who it has already in those statuses and evaluates how they're performing against other banks that aren't in it. I think this would be healthy for the SBA for a variety of reasons, one of which is the competition that it would force upon us to stay active with the SBA Programs and provide products to the small business community. So, I think that would be our first point of recommendation.

Second, I want to make out of my prepared text, the threshold moving down from $750,000 to $500,000 as Gary has just mentioned, we also agree. Our loan portfolio of SBA loans is barely $125,000 on average across the city. Over the 2½ years that I've been active doing this and I keep track of loans that don't become successful loans, loans that are in the process, as well as loans that are made, during that 2½ year period, I only can count a handful of loans, loan requests we even had over $500,000. Maybe unique to Kansas City, but across our area, that's what we're seeing.

As a final point I'd like to make more directly to the SBA, there seems to be a shift and I certainly agree with it of moving the onerous on to the banks, the documentation, underwriting. LowDoc is a good example of that. I read about the first step fund or excuse me, First Step Program, pilot program, that Boatmen is initiating through the SBA, Fast Track, I'm sorry, pardon me.

That pilot program, we're not directly familiar with it, but reading about it sounds to be good initiatives. The bank is certainly willing to trade guaranty amount coming down 75 to 50 percent in

return for giving us an opportunity to underwrite more of the loans, maybe take care of more of the documentation.

The reason I think that's beneficial to small business is that it does increase the speed and efficiency with which small business owners get their loans and we certainly would be willing to tradeoff the guaranty amount to come back and make those loans ourselves. LowDoc has been an excellent, excellent program for ourselves. Of the 12 loans we've made thus far, the first quarter this year, I think it's 10 of them, were actually LowDoc loans. Part of it is we're not a certified lender so we can generate those quicker and we've got other loans in our hopper.

I guess to summarize the three main points we're trying to make is the certified and preferred lending status program exists and we'd like to see it evaluated on an annual or at least every other year basis to determine which bank should be a part of that. Secondarily, the moving of the threshold from $750,000 to $500,000, we think, makes sense, at least in our market. We're not seeing the demand for loans over $500,000 and finally, putting more of the onerous back to the banks, we think, is an excellent way to go right now. We're developing efficiencies within our own organization to handle small business loans that aren't SBA and if they had anything to do with the SBA too, I think those would work very well.

So we again thank you very much for giving us an opportunity and I know you've got questions of us, some of the questions which were asked earlier of the preceding panel we certainly are writing notes back here. We'd love to have an opportunity to answer some of them, so with that I'll conclude my remarks.

[Mr. Park's statement may be found in the appendix.]

Chairwoman MEYERS. I thought maybe you might like to respond to some comments that were made and I'm very grateful that you are here because I'm hearing some things this morning that I've heard for the first time and it shows the value of getting home. All right.

Stan, do you have anything you'd like to add?

Our next witness is Deryl Schuster and he is president of Emergent Business Capital from Wichita, Kansas and they have worked and I'll see if I can get this right this time, with the 7(a) Programs and an SBLC Program.

TESTIMONY OF DERYL SCHUSTER, EMERGENT BUSINESS CAPITAL, WICHITA, KANSAS

Mr. SCHUSTER. Thank you, Madam Chairman and Congresswoman McCarthy. Thank you for this opportunity to discuss one of the real jewels of the Federal Government, the SBA's 7(a) loan guaranty program and thank you for bringing the legislative process out to the real world where this loan program takes on real life, as you said.

If we were to leave this building, in 30 minutes we would have driven by numerous small businesses that either received their start or were able to expand because there was a 7(a) loan program. Loans that wee made and serviced by private sector lenders. You would see businesses that would not exist were it not for the 7(a) loan program. Businesses employing people with most every-

one related to those businesses paying taxes to every level of Government.

Due to the heavy involvement of private sector lenders and the long-term nature of 7(a) loans, the loss ratio on this program is very low, 1.27 percent in 1994. Yes, the program is one of Government's true jewels and I'm pleased to submit my statement of support for the record.

In the interest of time I will not verbalize my credentials except to say I am pleased to represent the National Association of Government Guaranteed Lenders or NAGGL as we're called. Combined, our membership makes approximately 75 percent of all 7(a) loans made in America. As vice chairman of NAGGL, I'm in charge of governmental affairs this year which is kind of challenging to say the least.

In addition, the company I work for, Emergent Business Capital is one of the SBA's largest 7(a) lenders. The need for long-term capital for small business is as great today as it was when President Eisenhower signed a bill that created the Agency in 1953.

A tiny speck of an agency, but it has made or guaranteed approximately 600,000 long-term small business loans totaling about $80 billion since 1953. In recent years, almost all of these loan funds are put up by private sector lenders. Congress should reflect upon what our Nation would be like if today these businesses and the millions of jobs they provide did not exist.

Again, I must emphasize these loans or these businesses, their owners, employees, vendors, suppliers, etc. all pay taxes. As Government is downsized, the small business community must be more robust than ever before to create the jobs that will be needed. This program is a shining example of a public-private partnership that must be or should be emulated and expanded. The most hard-core budget cutters should be leading the charge to expand the vitality and utilization of this program. Without it, long-term small business loans just will not be made.

Small business lending is known to be risky. Lenders and regulatory policies discourage long-term business loans. Even factors beyond the control of the borrower and the lender helps explain lender reluctance without something like the 7(a) Program. Some of these factor include liberalized bankruptcy laws and its growing acceptance as a means of eliminating debt; labor strikes, environmental risks, governmental actions such as base closings, embargoes, interest rate hikes, mandatory benefits, etc. As SBA's budget is trimmed and the private sector will have to absorb even more of the program cost and administration, the Agency is correctly expanding the preferred lenders program. To maintain a quality program, NAGGL advocates a 75 percent maximum guarantee across the board to $1 million, expanded audit functions and lender training.

To be a viable contributor to our Nation's economy, this program must remain affordable and be able to be delivered profitably. NAGGL will be happy to continue working with this committee to assure a viable loan program and an independent SBA agency.

Thank you for the opportunity to again come before this distinguished committee and I look forward to your questions.

[Mr. Schuster's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Schuster. We're very pleased to have all of you with us and I'd like to start with a question for Mr. Schuster, if I may. I know that you have been interested in increasing that loan threshold from $500,000 to certainly back to $750,000 and $1 million, if that's possible. You say that NAGGL, the association that you work with makes 75 percent of the 7(a) loans, but we've heard today from a couple of banks here locally that they are not as interested in raising that threshold and what percentage of that—you say you make 75 percent of the 7(a) loans. What percentage of those loans are over $500,000?

Mr. SCHUSTER. I can only speak, Madam Chairman, for our company and I do have statistics for one other major SBA lender. As it relates to our company, 43 percent of the loans that we made last year, we could not make this year because of the $500,000 cap.

The ITT president who is now with Zion's Bank told me that 60 percent of the loans that ITT small business finance based in St. Louis made last year they could not make this year.

If one would look at some of the most dramatic examples of small business success stories, of those businesses helped with the 7(a) loan program, you would find over the years some of the finest examples of economic development and job creation have come from those businesses that were the recipients of loans larger than the existing $500,000 cap.

Chairwoman MEYERS. Thank you. If I may, Karen, I'd like to follow up with a question and then I have some questions for the rest of you, but I'll yield to Karen after this one, but can you tell me what you think is the real increase in cost to the borrower, if the administration's proposal is implemented? Now it's that proposal that would enable the threshold to go to $1 million and I am certainly not against it. We are looking certainly at a proposal of our own, but I am interested in what I've heard today and I'd like to know what you think is the real increase in cost to the borrower, if the administration's proposal is implemented? How much of that increase is going to be absorbed by the lender? How much is going to go on to the borrower?

Mr. SCHUSTER. Well, Madam Chairman, as you know, SBA loans carry with it a maximum interest rate that's allowable. The administration has proposed to increase that maximum by 50 basis points or ½ a percent which would be passed upon to the borrower by raising that ceiling which currently is 2¾ above prime and the administration proposes to let a lender charge up to 3¼ above prime. Much of that might well be passed on to the borrower and then there is a proposed increased of the 2 percent guaranty fee that currently only applies to the guaranteed portion to applying to the total gross amount of the loan. Some of that cost will be passed on as most guaranty fees are paid by the borrower. They are normally included in the loan proceeds and therefore amortized by the borrower as loan closing costs or loan acquisition costs, but most guarantee fees are borrowed and spread throughout the term of the loan term loan.

Chairwoman MEYERS. In your opinion, Mr. Thomas, and Mr. Park, do you think this would discourage some of your applicants from trying to make a 7(a) loan?

Mr. PARK. You're talking about the guaranty fee?

Chairwoman MEYERS. The increase in fees.

Mr. PARK. I don't think so. I have yet to experience—well, I have one experience of a person upset with the fees, but I think that was a communication issue where they didn't understand going in what all the fees were in the SBA Program.

I don't see it to be a major impact.

Mr. THOMAS. I have a NAGGL update for April. I can give two examples. This was provided by the SBA. A $54,000 5 year LowDoc loan which is the LowDoc average would cost the borrower an additional $13.50 monthly, and additional up front fees of $108. A $170,000 12 year SBA loan would cost the borrower an additional $51 monthly and additional up front fees of $782. The additional cost to a private lender would be $523 for the LowDoc loan example and $3,831 for the $170,000 loan. The additional cost to the lenders are over the total life of the loan. So, those were examples provided by the SBA.

Chairwoman MEYERS. And do you think those are discouraging?

Mr. THOMAS. I would not necessarily say they are totally discouraging, but I think they do add to already fairly expensive costs, 2.5 to 2.75 over prime, normally adjusted quarterly or annually. In today's rate environment where we have been experiencing some fairly rapid increases in prime, I know some of our borrowers are being adversely impacted by the increased rates that they're having to pay today versus what they were paying 3 years ago, for example.

Chairwoman MEYERS. Congresswoman McCarthy?

Ms. MCCARTHY. Thank you, Madam Chairman. I'm pleased that you pursued that issue with the panel because it's of concern to all of us as we seek changes and ways to improve.

I wanted to reflect with Mr. Thomas and Mr. Park the issue of getting other banks to follow your lead. You are shining stars in our community as far as I can tell, from not only the testimony here this morning, where your banks were both commended for your efforts to help small businessmen and women, but how do we then use you as a model and encourage other financial institutions to do what you're doing because you are—from the testimony this morning, and it's happened in testimony in Washington, as well, individuals do get frustrated as they go round trying to find an institution like yours and until they get to your doors they've been turned down and this is very problematic in our area and throughout the Nation. Could you speak to that, please?

Mr. THOMAS. Thank you for you kind words. It has been our bank's management which has encouraged us to use the SBA Programs. I don't necessarily know that this philosophy permeates the entire banking community. Some banks perceive the SBA Programs to be too regulation-ridden, they're too much trouble to get through the packaging, too much trouble to deal with the SBA. Some banks consider an SBA loan to be a loan of last resort. They'd rather not do those type loans. I've heard all kinds of reasons why other banks don't pursue SBA lending.

The programs have become more and more user friendly which the LowDoc is a perfect example of that and I think that basically it's been a close-minded attitude on the part of some other lenders and they just have not investigated what's really going on with the

SBA today. They're thinking maybe some of the things that they dealt with 15 or 20 years ago. I think banks need to be re-educated.

Mr. PARK. You've just hit on it. Education is the key because one of the things I preach internally and it was our senior management's direction that set us back into the small business market, especially into the SBA arena, but one of the things I oftentimes hear when I'm talking about an SBA loan to a borrower who isn't requesting one, but I'm out there talking to him, is that his remarks will be, "I'm better than that. I don't need that." I'll go to them and say well, for example, the 504 Program, this is an excellent program. We give this to our good borrowers. Which it is. It's an excellent program for strong borrowers, middle size borrowers, weak borrowers, whatever. It's an excellent program and those borrowers, I think, are starting to become educated, not only through ours, but there are other banks in town that do a very good job in promoting the SBA products. I think that education is just going to have to continue.

Ms. MCCARTHY. Madam Chairman, when Mr. Kent testifies before the committee, may we also inquire about what the SBA itself might be doing to market this good message, that's a good message now and get over the past histories that frustrated people?

Chairwoman MEYERS. I think we're all getting lots of good ideas about questions to ask Bruce Kent.

Mr. RICKETS. May I respond to the question as well?

Chairwoman MEYERS. Please.

Mr. RICKETS. I'm not certain that you need to do anything further to encourage us to participate in the small business markets. Much of the policies that are in place currently encourage us to do that. Moreover, we're going to do things that are naturally to our benefit and serving small business clients is to our benefit.

I think the changes that you've made with the LowDoc's is very beneficial and as will be the fast track pilot, but doing further things, Congresswoman McCarthy, I don't see that as eminently necessarily. One of the other things I'd like to point out with respect to the pricing discussions you mentioned of raising the cap to ¾ or 3.25 percent above prime and the fee, much like Mr. Darnell said earlier, I think I said his name correctly, the cost of capital is critical to these small businesses and we anguish over their ability to raise capital. We anguish over their ability to service debt. An additional incremental increase, I just can't see that as being terribly appropriate. It seems myopic to me. Clearly, there are tax revenue benefits that the Government gains from supporting small businesses with these guarantees and for an additional fee, as a user's fee to pay for that cost, seems inappropriate, especially given that we should be in the business of assisting them. A 2.75 percent increase over prime or rate over prime is a pretty healthy return relative to the risk, especially if it's a guaranteed product.

Chairwoman MEYERS. Thank you, Stan. We'll want your comments later too, Bruce.

Ms. MCCARTHY. May I pursue this? I just want to reflect back on some testimony from panel one from my own constituents, the Sladek's and also Mr. Goble, who in their testimony spoke to their

frustration of not being able to find institutions that would help them until Mr. Thomas, they found yours.

So your comments on we don't need to do any more, I take slight issue with. I think you are again shining examples, but there shouldn't be this kind of testimony coming before us. People are—other banks are not doing what you're doing and you're doing it well. That was my real concern that I wanted to raise.

Chairwoman MEYERS. I think one thing that they were implying, Karen, now I'm not sure about this, was that they had gone to banks for a loan from that institution without the SBA guarantee and had had no success and that leads me to a question I would like to ask of all of you.

Now this is a hard question, but it's one that Karen and I are going to have to answer as two people who have been generally quite supportive of SBA Programs, SBIC's, 504's, 7(a), and that is, does Government have any business in making loans at all? Should we even exist? Should we be guaranteeing these loans? If we just got out of the way, wouldn't private venture capital come in to take the place of SBIC's? Wouldn't the banks be more willing to lend, to make these small- and medium-size loans, if they knew there wasn't going to be a guarantee there, don't they rely on their guarantee just because they know it's there.

So could we start with you, Mr. Reisler, and maybe have some comments on this?

Mr. REISLER. Yes, and I'm happy to comment on that. I can only speak to the SBIC portion because that's the part that we occupy. There's a good argument, when you look at national statistics that venture capital has grown extremely well, and has begun to mature as an industry. That maturing can be seen by rates of return that are starting to stabilize instead of wildly fluctuating from year to year. That's good news for the country.

You have to get a little farther into the data then to look at where are the funds located and what are their operating characteristics? Private funds, because the largest source of money now is larger pensions tend to be located in larger communities which can support funds of $100 million or more. Kansas City is not one of those communities. There are a whole lot of other places like Kansas City. The distribution of private funds is extremely concentrated in northern California, Boston, New York and a few other cities. The heartland of America, South, nothing. That gets to the point. Is there something the SBIC Program can do, is there a role of Government?

I think the role of Government in this case is to stand behind funds that have the management credibility to raise money in their local community and the new regulations force a $10 million minimum for our style of fund which is a whale of a vote of confidence from local founders.

By looking at the need portion of the application a little tighter, trying to assess who else is in that market, I think that the natural regulation process should be moving SBIC's out of major urban areas and more into other parts of the country. In urban areas, the SBIC Program should focus on smaller funds that make small investments. There is a role for Government in this area.

Chairwoman MEYERS. Mr. Thomas, Mr. Park, Mr. Ricketts, and Mr. Schuster, if you could comment briefly on this. Should we even be here? Shouldn't we just turn all this over to the private sector?

Mr. THOMAS. Out of the 47 loans that I talked about that we presently have on our books in the 7(a) Program, probably half those loans would not be made without the SBA. A lot of those loans involve startup businesses. While they could come up with the equity and meet the equity requirements, there was no way they could provide for the on-going working capital needs and such as that, to sustain that business through that startup period.

Chairwoman MEYERS. In other words, that just would not have been a loan that you would have been comfortable making as a bank without some sort of support?

Mr. THOMAS. That is correct. That's the part of it I can address.

Chairwoman MEYERS. Thank you, Mr. Thomas.

Mr. PARK. I think my comments will probably be very similar to Gary's. When we make an SBA guaranteed loan, it's normally not the borrower that is a bad borrower that we're not going to make a loan to anyway. That person has already been denied and headed down that course of action.

What we're looking at is a borrower, typically, that there's something missing. It may be a startup which is a very good example. It may be a business that needs to term out in a 7(a) environment, working capital. They need that $25,000 to buy that—on top of that $125,000—piece of machinery and they need that $25,000 paid for over 5 years as opposed to putting it on a line of credit and watching it float right up and never get repaid.

So the SBA guaranty fills that gap. By stepping in, we're able to take a situation where the collateral mix, for example, might be different than what we typically would have on a term loan and give us a guarantee to go forward.

Also, another situation might be where the borrower himself may have some problems in his own personal background and the SBA guaranty can help us step in there, even though we've had dialogue with them and feel comfortable with what's gone on, but help us to clarify and give us that added strength that the borrower himself as an individual doesn't bring.

Chairwoman MEYERS. Thank you. Mr. Ricketts, would you have anything?

Mr. RICKETTS. I'll be brief. I think your program is essential. There would be loans not made otherwise.

We have 33 branches in the Kansas City marketplace. We have maybe 34, I don't know how many at last count. We have responsibilities to try to develop credit in the community bank marketplaces as we refer to them. We looked at 367 loan applications out of that group last year. We made 70 percent of those loans. However, only made 35 percent or 30 percent of the dollars that were part of the application which hearkens back to what Rob says. We're making $100,000 to $120,000 average loans and as he said earlier, 11 of those were SBA. So, we're not making very many SBA loans as a percentage of our total and we'd like for that to go up, but those 11 probably would not have been made otherwise. The SBA helps us mitigate some risk that otherwise jut couldn't be addressed.

Chairwoman MEYERS. Do you think it's because of the tougher regulatory climate of the last 5 to 10 years that banks seem to be turning down, at least if our testimony is any indication, turning down loans, but then they are finally willing to accept them if there is a guarantee?

Mr. RICKETS. I don't know. You would get a different response from each bank perhaps. Our bank is well capitalized. We have good reports from our examiners. We are encouraged through the fair lending laws, through the small business portions of the fair lending laws, through the community reinvestment work act, to participate correctly in the community lending and I don't see the laws that you're referring to with respect to real estate requirements. I think specifically what you're saying that's prevented us from doing transactions, on the contrary perhaps, we've been more, we've had more of an inducement to do smaller transactions through the examination process which is what I said earlier, Ms. McCarthy, with respect to I don't know that you need to do more. You've done quite enough, because some of the regulatory burdens are arduous. But we have an incentive to do the business and now we have an incentive to do it on a profitable basis with—it's been there all along, but it's even more so given the changes in the economic dynamics of commercial lending.

Chairwoman MEYERS. Thank you. Mr. Schuster, you represent a nonbank lender, am I correct?

Mr. SCHUSTER. Correct.

Chairwoman MEYERS. So, I would like your comments to my question.

Mr. SCHUSTER. Thank you, Madam Chairman. I'm happy to give you my thoughts. Frankly, many of the loans that are made under the SBA 7(a) loan program, some of them at least, as has been alluded here, may well be made by institutions on short-term bases.

A lender under the 7(a) Program, when they send in a loan, must sign a statement saying they would not make this loan under the same terms and conditions had the 7(a) loan program not been utilized. In fact, there was a GAO study last year that I'm sure you've seen that said that SBA loan funds provided 60 percent of all small business loans that had maturities of over 1 year. So, 60 percent, based on that GAO study, of long-term small business loans would not be made were it not for this program. I submit that one of the original mandates of the Small Business Administration was to help provide long-term financing for small business.

The name of this program ought to be economic development and job creation. I do believe that the Congress has an authority, a purpose to help stimulate economic development and job creation in our country and we should not lose sight of the fact that this program is truly a net generator of revenue to the Federal Government.

So from that standpoint, I think it should be continued.

An SBA loan or a small business loan is as varied as the business applications. Every one of them are different. Principal strength, financial strength is different. Collateral is different. Competition is different. Management experience is different. These differences are across the board and truly without this pro-

gram the majority of the jobs created, because of this program would not occur in our economy.

Chairwoman MEYERS. I have a couple more questions and so I'd like your answers to be very brief because we have to get on to the next panel. I knew that we were going to have this problem. I knew I was going to have a lot of questions for you and I'm sure Karen does too.

I just would kind of like a very quick answer from Gary Thomas and Rob Park about something that came up in the last panel.

Do you recommend packagers to your SBA borrowers and how much do these packagers normally charge?

Mr. PARK. Typically, a borrower comes in. We don't do the documents. Our legal in-house legal staff has told us not to fill out the application, the SBA applications, so we typically have three or four packagers that we've worked with in the past and who we recommend, but before we do that, we're generally sending them to Rockhurst or out here to Johnson County Community College to the small business development centers. That's the first line we'll send them to.

As far as cost, because I have seen packagers produce stuff, it's all over the board, but it's typically in the $500 to $1,000 range.

Chairwoman MEYERS. All right, thank you. Mr. Thomas?

Mr. THOMAS. We always offer assistance to the small business concern, and try to determine if they can, in fact, handle the package. If we believe they can't, we will recommend an SBDC or a packager to them. The typical packaging costs we're seeing are around $500. We do not do the package.

Chairwoman MEYERS. All right. Thank you very much. Finally, I guess I have had some concern about LowDoc loans that maybe we're not requiring enough information, that if this program shows a higher default rate than some of our others, as Mr. Schuster mentioned we've had a fairly low subsidy rate on some of these programs, could you evaluate or could you comment on the LowDoc loans? Do you require a lot of additional information and are there improvements that you think should be made in the LowDoc process?

Mr. THOMAS. We have found that possibly the authorization and loan agreements on the LowDoc's are maybe not as definitive as they are, for instance, on a normal 7(a) loan. We find that they haven't typically put the same requirements on us that they might under a normal 7(a).

We have tried to spot what we consider to be those deficiencies and cover them in-house, make sure we still have the information. Our files are still going to be subject to examination. They're open to examination by the SBA. We don't want any holes in our files, so we're typically trying to spot any areas that we feel haven't been covered and cover those ourselves to make sure that we do have the documentation in file.

Chairwoman MEYERS. Would anyone else like to—Rob, would you like——

Mr. PARK. I would just simply add the information we get from the borrower for LowDoc is the exact same information we get for 7(a). The one benefit to LowDoc is that the borrower isn't having

to produce it sometimes twice, once for us and once for the SBA. I think that's a major benefit.

Something else though, the tax requirement, the tax form requirement—I can't think of the form off the top of my head, that adds a lot of time and they're not getting responded to quickly. We've had as long as 3 weeks——

Chairwoman MEYERS. Is that true all year round or just in April?

Mr. PARK. It happened last fall. It took 3 weeks to get—we sent off the form. It was the early stages of LowDoc, so perhaps that's a bad example, but it still takes a while to get the information from the IRS.

Chairwoman MEYERS. All right. Mr. Schuster?

Mr. SCHUSTER. Madam Chairman, as you know in today's budgetary limitation environment, this program cannot experience and live through a blip in the road caused by the losses that could occur in special programs that are perceived by the administration. In the past, when the Agency has implemented special loans programs, especially those with arbitrarily established low dollar amount limits, as has been done with the LowDoc Program, in the long run, when the dust settles, higher losses have occurred.

We are concerned that the LowDoc Program could generate that blip in the road which will cause the total program difficulty. That is why the NAGGL Board has proposed enough discipline and risk by the lender to force that kind of underwriting discipline. So, rather than to discuss whether it's got merit or not and certainly the efficiency of the program is positive, we think a 75 percent guarantee would provide adequate discipline to the program and would be positive.

Chairwoman MEYERS. We appreciate your comments and I've asked Congresswoman McCarthy if she has additional questions. She doesn't right now, but I'm sure she would join me in saying that I do have some additional questions that I will submit in writing and if you would be so kind as to answer them and we appreciate very much your testimony. It's been extremely helpful. Thank you and if our next Panel would come to the table immediately.

PANEL TWO: SMALL BUSINESS DEVELOPMENT PROGRAMS

Our second panel is before us and our second panel will be talking to us about business development and our first witness is Mike O'Donnell, director of the Small Business Development Center, the SBDC, University of Kansas in Lawrence, in Lawrence, Kansas.

Mr. O'Donnell?

TESTIMONY OF MIKE O'DONNELL, DIRECTOR, SBDC, UNIVERSITY OF KANSAS

Mr. O'DONNELL. Thank you very much for the opportunity first of all to come and talk with you today. Hopefully, you'll be able to tell from my accent that I am not a native of Kansas.

Chairwoman MEYERS. I guessed that.

Mr. O'DONNELL. Thank you. I've been in the United States now for about 7 years. I'm married to a Kansas native. For the last 6 years I've been working with the University of Kansas and the last 4 years I've been managing the Small Business Development Center that we have at the University of Kansas.

I do appreciate the opportunity to tell you a little bit about our center and what we do with the Small Business Development Center.

I might add parenthetically too that I'm the director of the Small Business Institute Program at the University of Kansas. I also teach the Small Business Management class at the University of Kansas. My background, however, is not academic. It is very much practical and I come from a family business and I've worked as an entrepreneur in a large corporation in Australia prior to coming to the United States.

I also sit on the Board of Directors of the Certified Development Company in Douglas County, the Wakarusa Valley CDC and my testimony today will address the activities of the Small Business Development Center, but I would welcome any question about either the SBI or CDC later on too.

Our center at the University of Kansas is fairly small on the scale of things. I'm sure you've over the months been talking with lots of people representing SBDC's. Our center in Lawrence at the University of Kansas, is small. It's the second smallest in the State of Kansas and we have 10 regional centers in our State. We have at our center in Lawrence just two staff persons, myself and an assistant director and I rely on graduate student assistance and an undergraduate student to help me deal with the case load that we do experience at our center.

I have a geographic responsibility for six counties here in the northeast corner of Kansas, counties to the west and counties to the north of us here. Many of them are rural. Leavenworth County and Douglas County are fairly urban now and growing very rapidly.

The population base of those six counties is roughly about 220,000 people and is growing very rapidly, especially in Douglas County and Leavenworth County.

The sort of things that we do at our center may be of interest to you and I hope that you have copies of my testimony there. But really I just wanted to talk about four examples of people who we've worked with recently.

This is just a snapshot of people who I've talked with personally over the last 5 working days and we have a fairly busy schedule at our center, but in the last 5 days, just taking four examples of people who I've worked with, one was a husband and wife business. They manufacture high end audio products. I've been working with them on and off now over a period of months. They left yesterday for Los Angeles. They're attending a fairly large high end audio show. I have been coaching them and working with them on their sales presentation to potential clients, working with them on how they might present themselves to potential distributors, to find distributors across the country and encouraging them, holding their hands, in some respects, to get them enthused about going there. Their first day is this morning. Over the next 4 days they'll probably meet somewhere between 6,000 and 8,000 people who will visit their booth.

A second example of a client that we've worked with recently and these sorts of clients are becoming more common, is a gentleman who recently has been laid off or thinking of taking early retire-

ment, has involved himself in an organization out of Florida and many of these organizations seem to come from Florida, that's offering vending machines and the opportunity to make a lot of money with little risk, purely by spending some money to buy some vending machines. We've been counseling him at our center to encourage him to look at the bigger picture and what he might be wanting to get out of this particular operation. There are lots of scam merchants out there and we at our center get to talk to people who sometimes are the victims and perhaps prevent them being the victims in some cases too.

Another example of a client we recently worked with was a young gentleman referred to us by a bank. He'd approached the bank, was interested in getting a loan to start a business. He did not have a business plan. He did not have any cashflow projections. The bank referred him to us and again we've been working with him over a period of weeks to assist him to develop those projections to understand the business, and we've helped him reduce his estimate of income down from about $1.5 million in the first year, down to something like the $100,000 which is a little bit more realistic for his particular venture.

The fourth example I wanted to use was a woman who was interested in buying an existing business in a small town near where we are in Lawrence. She'd approached the existing owner and the owner had given them financial statements and tax returns. The potential owner didn't have a clue as to what to do with those things. So, we helped her understand financial statements, to read them, to learn a little bit about the history of the company so that she could make a more thorough evaluation of whether the business was worth her while buying and should she do that, perhaps what range of price she might be able to afford to pay for the business. In that case, too, we refer our clients to work with professionals like CPA's and attorneys to finalize arrangements prior to any monies changing hands or any deals being done.

But that's a little snapshot, if you like, of some of the things that we do. We have some statistics in our testimony that show that over the last 5 years at the center, the increase or the volume of traffic that we're seeing is increasing, has increased by over 700 percent in the last 5 years. The population base in that territory has grown by roughly 1½ to 2 percent a year which doesn't explain most of that. We are finding that as we've been working in our community, developing relationships with banks, with other organizations in the economic development field, word of mouth has spread and we've become extremely more popular as a resource for people to come and talk with us, which brings us to the funding issue. Again, as part of the testimony we have some pie charts on page 8 which show the funding that our center gets. This will emphasize to you the small nature, if you like, of our center. We receive in total about $113,000 a year. About $57,000 of those come from the Federal Government under the SBA Program. We match those dollars with money provided through the University of Kansas, through the School of Business and another division within the University. We get money from the State of Kansas out of the lottery funds in the State. We also receive money now from our community and at the present time we're receiving $5,000 a year from

the Lawrence Chamber of Commerce because we complement the activities of that organization and work very closely with them.

In terms of the future, the last couple of page of my testimony, I as a Director of a Small Business Development Center and as I like to think of myself as an entrepreneur myself or a small business person, I cannot anticipate existing Federal funding being maintained or increased with any certainly. I also face the possibility that the University will reduce some of their funding too for the center. So, what I'm anticipating doing and what I am doing is securing additional support from our community. The city of Lawrence and the county of Douglas County are offering additional funds out of economic development resources to our center this next year and I hope to be able to build on that in the other five counties that we work with.

Seeing as my time is fast approaching, I might wind up there and I'd be happy to address any questions as we have them later on. Thank you.

[Mr. O'Donnell's statement may be found in the appendix.]

Ms. McCarthy. Thank you, Mr. O'Donnell, and we appreciate your input and testimony certainly and we will look forward to that question and answer period.

Winston Joe Sowers, we welcome you here today.

TESTIMONY OF WINSTON JOE SOWERS, CPS, LEAWOOD, KANSAS

Mr. Sowers. Thank you. Good morning. I'd like to take this opportunity to thank you and the Committee on Small Business for this opportunity to express my opinions and experiences with the SBDC, the Small Business Development Center. As requested, I'll keep my comments brief.

We first became aware of the SBDC Program through several "Getting Started in Business" seminars put on by both Rockhurst College and Johnson County Community College in early 1993. While I am a graduate of Rockhurst College and think very highly of their program, we decided to utilize the Johnson County Community College Small Business Development Center because it was much closer to our office.

I first met with a Johnson County Community College SBDC Counselor, Trish Eisele, in mid-April 1993. The major problems we faced were similar to what a lot of new businesses face: How to market and sell their services and how to identify target markets. Ms. Eisele helped us realistically evaluate our skills and areas in need of improvement. She also reviewed marketing plans and helped shape existing ones. Over several meetings she provided numerous suggestions to help direct our efforts and energies.

What impressed me the most about the services received from the Small Business Development Center was that they were specifically directed to solving our real problems. Ms. Eisele forced us to set realistic goals and required us to do the majority of the work to realize the end result. The goal of the Small Business Development Center from the start was to develop our skills in those areas needing improvement to the level where we could solve these problems by ourselves and become self sufficient in these areas. In a sense, what the Small Business Development Center provided us

was a hand up, not a hand out and this, I feel, is their most effective function.

Having recently started my own business I understand why it's easy for startup small businesses to underestimate the amount of time, commitment and ability necessary to successfully survive and prosper in today's environment. Having to operate all facets of your business with only yourself and your family can be an overwhelming task. Often small business owners have neither the cash flow nor the inclination to utilize paid professionals to help them with their many startup problems and questions.

As a result, it is easy to dig a hole too deep to get out of before seeking help or spend months or even years working out of problems that could have been avoided or minimized with early adequate direction. Thus businesses fail and employees are laid off due often to avoidable blunders by owners. This is an area where I think the Small Business Development Center provides essential services by training people to operate their businesses in an effective and capable manner and avoiding those precarious setbacks during the first critical months and years of operation.

If I were to suggest improvements in the program, it would only be to expand its scope to be able to offer more assistance and direction to startup businesses and to let more people know of its programs. Perhaps charging program participants a small nominal fee for SBDC services such as $10 or $15 an hour for consulting could help defray some of the costs and not cause a major hardship to the participants.

In closing, let me state that we received excellent assistance from the SBDC Program and credit the help of our SBDC counselor, Trish Eisele, for a significant part of our success to this point. I feel it is a useful program that more than pays for itself by helping to develop small business people.

Thank you again for this opportunity.

[Mr. Sowers' statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Sowers. Our next witness is Ana Riojas of Riojas Enterprises, Inc. of Lenexa, Kansas. Ana?

TESTIMONY OF ANA RIOJAS, RIOJAS ENTERPRISES, INC.

Ms. RIOJAS. Thank you, Madam Chairwoman. I find myself in awe this morning to be able to make this type of presentation as a business woman. It just blows me out of the water.

First of all, I want to say that a $12,529 investment by the Federal Government through SBA produced a rate of return of 9,961 percent. Now, I think that any investment broker would like to get an investment like that any time of the day or week and you know, when I began to analyze what this investment meant to the community, to people's lives and to the State and local and Federal Government, it was really incredible because we were able to create 50 jobs because of that help through the training that SBA provided us.

In addition, the average hourly rate was $8 an hour so if you multiple 50 jobs times 2,080 hours times $8 an hour, that's $832,000 a year that was pumped into the local economy. Then in addition to that, $64,000 was provided by the employee contribu-

tion to SSA and Medicare. Our contribution was the same $64,000. The employer's contribution to Federal Unemployment Insurance was $67,000. The employer's contribution to the State unemployment was $27,000. Our revenue increased by $1.2 million which was a rate of return again of 9,961 percent to Federal dollars invested in this small company.

When I say that I am in awe, when I look back over my life, I just thank God for the opportunities provided me by this Government. As a first generation U.S. citizen, born of Mexican parents, I was unfamiliar with what was necessary to create, sustain and grow a successful business into today's climate of dynamic competition. The SBA provided me, Ana Riojas, president and founder of Able Employment/Riojas Enterprises with assistance in 1993 and 1994 in the amount of $12,529. These funds provided training and accounting systems, proposal preparation, cost analysis and business management at the Tuck School of Business of Dartmouth College. The Minority Business Executive Program at the Tuck School provided problem solving techniques and strategies which enabled our company to grow without endangering its financial stability.

In less than 2 years, 50 additional jobs were created. Our revenue was increased by 227 percent.

The debates seems to be heating up whether the term "disadvantaged" is appropriate with respect to certain groups of people, and whether minority set asides, 8(a) Programs or Affirmative Action Programs should be abolished.

I learned about cultural bias at a very young age. There was a large white line that divided our playground. The Mexican children were not allowed to cross that line to speak to the white children, to study with them or to play with them. This happened in Kansas City, Kansas.

Children are the most vulnerable and innocent victims of cultural bias. They are at a time in their lives when a world of possibilities stretches before them. They are also at a time in their lives when self-esteem is developing or being crushed by a world that wants to hold them back for its personal gain.

The inferred message from the playground was that we were to forget who we were and to pretend to be like "the normal" children. We were to abandon the language and traditions of our families for the sake of conformity. Some of us did try to mainstream, although no one was convinced we were like them. At any moment, without warning, we were reminded that we were living a charade.

Rather than embrace our cultural differences, we, in the United States continue to draw lines that divide our communities and create barriers that many minority, small businesses find impossible to overcome.

These experiences inspired me to begin my own business. Seven years ago, I founded Able Employment with the goal of creating the best professional service agency in Kansas City. I invited people of all race, religion and age to join me in this challenge on the condition that they perform their jobs to the best of their abilities in a courteous and professional manner. Our original work force comprised approximately 20 percent Hispanics, 25 percent African-Americans, 50 percent Caucasians and 5 percent Asians.

We quickly learned that if given the opportunity, proper training and counseling, most people, regardless of race, religion, age or gender, or any of those other things, possessed a strong work ethic and remained loyal to their employer. The key was to give people dignity by providing them with jobs that pay a better than fair wage and recognize them as unique individuals, not disadvantaged or disenfranchised second class citizens.

There remain many obstacles for small, minority businesses to overcome in the private sector. For many supervisors with hiring authority, "minority equals inferiority."

Although much publicity has been given to major corporations because of their "perceived willingness" to provide business to minority vendors, the reality is that very little has changed. One such major corporation made the following comment to our company after encouraging us to present our services to their management team: "Well, that certainly is one of the finest presentations I have heard. Your sales manual and proposal are very attractive and professional. However". The obvious patronizing had to be swallowed as part of doing business.

When we are given an order from a client, very often it is only for the low paying jobs and these jobs do not carry the profit margin of the higher paying positions which makes growth and cashflow extremely difficult.

Recently, an evaluator for the State of Missouri wrote the following comments regarding our expertise: "The expertise of the personnel staffing the Able office is very heavily emphasized for the Hispanics and minorities. Numerous awards and achievements have been granted. They are definitely minority business oriented. It is fantastic to promote the minorities, but I wonder if adequate time can be spent on maintaining a viable contract. Also, I question whether the staff will be devoting more time to hiring of minorities and unintentionally discriminating against nonminorities."

Then they also stated that "the resumes of the personnel identify management and ownership backgrounds." Believe it or not, they held that against us because they felt that we did not have the clerical experience to be able to understand what a clerical person goes through. What a dummy who wrote that one. I'll tell you, I couldn't believe it because they didn't give us—and they knocked off points because we're good. Can you believe that?

Remember when one of the major reasons for not awarding contracts to minority businesses was because we did not have the management experience. That's pretty crazy. To be disadvantaged means that if one minority vendor either misses a deadline, has one widget that does not work, or does not perform according to specifications, then the whole minority vendor community is condemned.

To be disadvantaged means that another set of standards is used with respect to the performance of a minority person or business and those standards are rigid and almost impossible to maintain over a period of time.

The minority buyers in the corporations also have a problem because many times if they give a contract to minority business and that minority business messes up not only is that minority commu-

nity condemned, but so is the minority buyer. "See, we told you they couldn't perform." It's a Catch-22.

Small minority and women-owned businesses have a difficult time competing against large corporations. Now it's not impossible. We can do it, but it is a problem because we don't have the resources. This is where programs like the Small Business Administration, they help to level the playing field by providing resources to small businesses. So, the question remains how can a minority and women-owned businesses compete with the same companies that are denying them the regular employment opportunities? Ironically, the free enterprise system resolved this problem for our company. Because of increased foreign and domestic competition companies had to find a way to lower their labor cost and still maintain their high standards of production and quality. Our strategy had to be a partnership not only with our workers, but with our clients. Everybody had to benefit. That meant that our workers had to be paid a reasonable wage. Our clients' labor costs had to be reduced to increase profitability and our company had to make a profit.

From the start, small businesses were the most receptive to our philosophy, not the large corporations. The small businesses cannot afford the luxury of discrimination. They asked us to send them highly productive individuals with good work habits and low absenteeism. We did. They got a diverse work force.

Chairwoman MEYERS. Could you summarize?

Ms. RIOJAS. I'm almost finished.

Chairwoman MEYERS. As fast as you can. Thank you, Ana, go ahead.

Ms. RIOJAS. That is why I'm here today, to summarize, to provide testimony on behalf of the Small Business Administration. As a minority woman and a small business owner, I could not have realized my full potential without the help of SBA and that for a conservative, that was hard for me to realize, that 1 day I would be a beneficiary of a program that I thought was totally worthless. I want you to know. So, it's funny, how when you're on the other side of the fence, all of a sudden it becomes very worthwhile.

I hope that others will get the same benefits that I did and thank you very much for letting me share these thoughts with you.

[Ms. Riojas' statement may be found in the appendix.]

Chairwoman MEYERS. Thank you for being with us today, Ana. We're glad to have you.

Our next witness is Randee Brady and she is with the center for Technology and Business Development, Central Missouri State University, Warrensburg.

TESTIMONY OF RANDEE BRADY, CENTER FOR TECHNOLOGY AND BUSINESS DEVELOPMENT, C.M.S.U., WARRENSBURG, KANSAS

Ms. BRADY. Good morning. Thank you for the opportunity to let me present my views from the SBDC Program to your committee this morning.

My name is Randee Brady and I've been the SBDC Coordinator at Central Missouri State at Warrensburg off and on since '86. I've worked as a consultant and director at three different SBDC cen-

ters since '82. Also, I owned and operated two separate small businesses for 9 years, from '73 to '82. I agree with Mr. Sowers, that I know first hand the risks involved and how overwhelming running a business can be, whether or not you're profitable. Quite frankly, I've been both.

Four years ago, I took another position with CMSU and just recently have returned to the SBDC Program to direct new R & D efforts to expand the services available to help the small business sector. After this 4 year absence, I've had a chance to get reacquainted with SBDC Programs and I'm even more convinced of the SBDC's effectiveness and solid contributions to our national, State and local economy. I've presented a written testimony for you, jam packed full of facts and figures, but let me just summarize some of the key points.

The small business sector of our economy is very important. We all are familiar with the statistics. That's where most of the new net job growth will be coming from. Corporate America has peaked out with job growth. Our children, our grandchildren will be finding their financial and career futures based in small businesses—many of them with 20 employees and fewer.

It's crucial to support small business success since the failure rate is rather high. That's where the SBDC comes in. It's a comprehensive national delivery system of assistance that specializes in individualized counseling and training and we can help many companies avoid unnecessary failure and weak market positioning.

We have an integrated approach to analyzing business performance, therefore the SBDC counselors can accurately differentiate between symptoms and root causes. The clients benefit immediately.

As I'm sure you're aware, many entrepreneurs are excellent technicians or producers, but they are not experienced in management principles. We provide the essential nuts and bolts education on the numerous and diverse aspects of operating a business. We teach the practical application of sound management practices in individual business situations. The impact of this program is positive and measurable.

I've put a brochure in front of each of you that has some very impressive comparisons, charts and figures and numbers comparing the SBDC clients through a particular year with regular Missouri businesses. Job creation, sales, tax revenue are increased substantially due to their long-term counseling involvement with the SBDC centers.

Consultation provided generated $3.62 in new tax revenue for every $1 spent on the SBDC Program. Nationwide, during 1994, SBDC's counseled more than quarter million clients, proposed and existing businesses from all sectors: Retail, service, manufacturing, wholesale, startup, construction, home-based, etc.

The Warrensburg SBDC operation reaches out and works with about 250 clients every year, again, of every description. The SBDC's are the only business development network currently serving all aspects of the small business community and reaching those that are under-served by traditional methods, especially women-owned businesses.

In a recent article in the Harvard Business Review, Professor Bhide states that most small businesses do indeed begin with small amounts of capital. However, instead of money, Professor Bhide points out that these businesses need to First, get operational quickly; Second, focus on reaching a break-even point very quickly; Third, find markets where they can fill a unique need; Fourth, manage their cashflow; and Fifth, manage growth. They can't afford a high-cost management team to help them do this.

That's why they need the SBDC. These are the very areas in which we are trained to assist them. As great as the SBDC Program currently is, I can envision some improvements to make the program more effective, to allow more bang for the buck.

First, leverage existing resources. We are doing this ourselves on a regional basis with Rockhurst College and other partners to insure that any and all small business clients are referred to the appropriate resource with no duplication of services. This will pave the way for each resource partner to focus on areas of specialization. Also, we envision tighter relationships with other partners to provide more outreach, a version of the old circuit riding routine. That is, 1 day spent at each Chamber of Commerce or economic development agency to provide services to small businesses.

Second, utilize new technology. We have an excellent electronic data for Missouri clients. We hope to keep expanding that service. We're also experimenting with interactive TV to hold workshops simultaneously in four different communities in a rural area of Missouri.

Third, increase service through program revenue. We believe that basic services should remain free of charge for small businesses, but we are looking seriously at providing more extensive or more in-depth services on a fee basis, to supplement the Federal and matching funds.

I encourage you to maintain the SBDC Program to support small businesses. It's a win-win proposition for all partners involved. Thank you.

[Ms. Brady's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Randee. Our next witness is Dr. Richard Hunt and he is with Rockhurst College, Small Business Institute from Kansas City, Missouri.

Dr. Hunt.

TESTIMONY OF RICHARD HUNT, ROCKHURST COLLEGE, SMALL BUSINESS INSTITUTE, KANSAS CITY, MISSOURI

Mr. HUNT. Thank you, Madam Chair. Thank you, Representative McCarthy. I am professor Richard Hunt of the School of Management at Rockhurst College. I've been the director of the Small Business Institute at Rockhurst since 1985. I am currently a national vice president of the Small Business Institute Directors Association and in that sense I'm speaking for all 475 of the SBI Programs that are across the country.

As an SBI director, I have total responsibility for all phases of the program as shown in the written testimony, but basically procuring, screening clients, preparing formal agreement of the scope of work that we will engage in with the client, instructing students how to function as professional consultants, filling in knowledge

gaps the students may have because many problems the clients have are specialty problems that are not mainstream business types of problems, supervising the whole on-going consultation, the preparation of the written report, the presentation of the written report and then finally the ultimate submission to the SBA.

Our program, the SBI Program, is one of three consultation programs sponsored by SBA. The other is SCORE and SBDC. We're housed in colleges and universities and faculty from, typically from the business schools, function as the directors.

At present, we serve approximately 6,000 small businesses a year on a no fee, no charge basis except for extraordinary items such as I've had clients who wanted to send our 5,000 mail questionnaires and we said you pay the postage type of affair.

While our numbers are small, the amount of time we spend with our clients is very large because we basically specialize in large scale projects that are beyond the scope of SCORE or SBDC's to handle. We average nationally about 120 hours a client, so we spend roughly as much time with our 6,000 clients every year as SCORE does with its 350,000 clients a year.

Basically, these kinds of projects are things that the small business owner does not have the time to do on their own and in many cases does not have the expertise to do on their own and go out and hire a professional consultant would be a very extravagant way of dealing with it.

In a recent survey we took of our clients, we asked them what did they think the value of the consultation would have been worth to them if they had had to pay for it and the minimum response we got was $2,000. The maximum response was $10,000. So, this is a lot of money that many of the clients, especially as they are still in reasonably early stages of their business, just don't have.

So we fill a very definite need. In fact, it's very gratifying that I get a large proportion of my clientele from our Small Business Development Center. They basically say we can only take these people so far. We need more and you're the folks who can do it.

So our function is very complementary to SCORE and SBDC in something that at present they really are not in a position to handle which is the ultra-large project.

Other things that are advantages is the Small Business Institute Programs. In many rural areas, we are the only provider of assistance. We have some of our directors who handle as much as 100 to 150 mile radius around their institution. Many of the Small Business Institute Programs are key resources in terms of everything from literature on how to run your business better to computer assistance. One thing that we're working on now, the Small Business Institute Directors Association is the development of a program for helping our clients learn how to use the Internet. This is obviously something that even a few years ago was unheard of. Now it's becoming mainstream and part of what we have to do to help our clients to become mainstreamed.

Another advantage of the program is the student involvement. We are, in essence, grooming the next generation of entrepreneurs and this is the one place they can get the hands on experience, what is it like to be a small business person, what are the problems they have to deal with?

The student response is overwhelming. It's very much a self-selection process on the part of the students and in some cases it almost gets a little scary. My favorite story on this, one day the Kansas City Star had an article about the most dangerous census tract in the Kansas City metropolitan area. The next day I took a team dead center into that tract to work with a client. I asked the students if any of them had hesitation, I would respect their desire not to go there. Their response was "let's take back the streets."

So anyway, as you can see there's almost a missionary zeal that's associated with the program.

Very quickly, what's the effectiveness of the program? SBI clients, we did an impact study and they averaged about 30 times the national average on job generation. The payback in terms of taxes, sales taxes, contributions to Social Security, Medicare are approximately 20 times the cost of the program, i.e., $60 million collected versus the $3 million for the program. So, we more than pay for ourselves.

Suggested improvements. The Small Business Institute Directors Association is working on this. One thing we're working on now is roughly a 25 to 30 hour review process for loan recipients where we would go in, do an analysis and if further help was needed then we would be there to work with them, as I mentioned, the Internet.

A suggestion for improvement basically—I'm basically out of time—just basically reduce the bureaucratic aggravations. For instance, one problem we've always had is the academic year and the Federal fiscal year do not mesh and this has caused us a number of problems.

So we're hopeful that Congress will continue to fund us and I thank you for your patience and I appreciate the opportunity to speak with you.

[Mr. Hunt's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Dr. Hunt. I'd like to say to the whole panel that I think because of a speaking appointment that Karen has that we are going to forego questioning this panel in order to hear from Mr. Kent and I think we do have questions. I know I do and we'll submit them in writing if that's all right.

We appreciate very much hearing from you and would like to get your comments further and am sorry that we are running just a little bit late.

Our next witness is Don Stevenson who is the Kansas City District Manager of SCORE and we'd like to hear from you at this time, Mr. Stevenson.

TESTIMONY OF DON STEVENSON, KANSAS CITY DISTRICT MANAGER, SCORE

Mr. STEVENSON. Thank you, Madam Chairman, Congresswoman McCarthy. I'm Don Stevenson of SCORE. A lot of people don't know what SCORE is. That's Service Corps of Retired Executives. It is an adjunct to the Small Business or has been an adjunct of the Small Business Administration. We operate within their precincts and in fact, I think we're part of their budgetary—I know we're a part of their budgetary process. That's a source of concern at the moment.

I am the district manager. That is defined as a person responsible for a group of the operation, of a group of SCORE chapters in a given area. The SCORE chapters, they're quite autonomous as to how they wish to operate and so forth, but some coordination is helpful and there are a number of us that do that. In this particular region, there are districts in Cedar Rapids, Iowa. There are districts in Des Moines, Iowa; Omaha, Nebraska; the Wichita area; here in Kansas City. This covers the four State region. Organizationally, we closely do follow the SBA structure, geographic structure, as to how we operate.

The SCORE members here in this chapter particularly and I'd like to talk about Chapter 19 because it's a—I'm going to call it a flagship chapter. We're fortunate that Chapter 19 is one of that type because it is the constituency chapter for you two ladies who are sitting on this panel right at the moment. The membership mix of that chapter is approximately 5,545, so that we have good representation, both sides of State line, if there is any reason for that to be effective relative to the business activities involved. That's the make up of the chapter, 88 members.

We have a number of committees that have been organized, many of them of recent times by a rather active chair person that we have whose name is Patricia Carley. She's given us a bad time, sometimes, on getting things done, seeing that they get done. These 88 members represent quite a cross section of business experience background, empirical knowledge, expertise. We've got several people with in-depth experience in international activity which has been a rather high profile item of recent times. We've got a number of people who are in manufacturing or have been in manufacturing, in things over and above the routine accountant, bean counter, type of operation.

This cross section gives us some pretty good membership that we have. It gives us a pretty good background to work from in the servicing of the small business community.

Now when we say we service the small business community, we're really talking about the almost unheard portion of our economic population. We start with and we go all the way across the spectrum in size, but we start with and are willing to work with and do work with a number of the—well, the generic term is Mom and Pop operation, Mom and Pop. They simply do not in the economic environment, in the economic community, they have a very low, very small or no voice whatsoever on a number of things and it is SCORE representation that frequently is able to provide them some help, some background, some avenue, some way to assist them in whatever their needs are from a business standpoint. We are their spokesperson when they haven't got anybody else and we consider that one important function that we perform.

Now how do we do this? We do it primarily, first of all, with a one on one counseling situation. We are willing to accept a request from a potential entrepreneur, an existing business who has some difficulty that they might like to address of want to expand or plan or they need some additional help in developing an element of their management that they're weak in, whatever it might be.

We can provide, SCORE can provide a counselor, one on one to sit down with this business person to explore those questions, to

analyze it, to make suggestions. We do not do it. We are not—there's a difference. If you go to the dictionary and look at the difference between counselor and consultant, we are not a consultant. We do expect the person to do the performance of the work.

Along that line there was some allusion made here earlier this morning relative to the packaging of loans and so forth. We do not package loans. However, we do have available and do provide a good deal of help, counsel, guidance, analysis, correction and so forth in the proper preparation of the basic document that is a business plan. That's the thing we need.

We do this in the business information center which is the center we have established here in Kansas City. There are 11 in the country. You ladies are fortunate in having one in your constituency. It's a center with a large library with computer capabilities, with a counselor on hand, a place that a client can come to obtain this information, to research, to ask questions and to get answers. No, we operate that all during the business week, counselors on hand. It's located downtown. Parking is lousy. That's normal. It's in this business center that a great deal of this work is accomplished.

We do outreach work with prebusiness workshops, we have regularly scheduled in this area, regularly scheduled prebusiness workshops twice a month. Thirty-five, 40 people per sessions, 2 months, attend those workshops. It's a 1 day operation in which we attempt to address everything they should consider in the organization of the business. We strongly recommend potential entrepreneurs attending it.

We do outreach work with that with AT&T, with the Commanding General Staff School at Fort Leavenworth, with what used to be over on 95th Street, places like that with their outplacement people where this downsizing has been taking place. SCORE stands ready. We work with SBI's. We work with SBDC's. We are available for all of that. We only need to have people understand that.

We do this at a cost of about $3 a counseling session overall, nationally.

Chairwoman MEYERS. Sounds like a good value to me.

Mr. STEVENSON. We would hope that it could continue on the fiscal side of things so that we can continue this type of thing.

Thank you very much for the opportunity.

[Mr. Stevenson's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much for being here today, Mr. Stevenson.

Our next witness is Jan Ilames and she is with a firm called American Balloon and she is a small business owner from Lee Summit, Missouri.

TESTIMONY OF JAN ILAMES, OWNER, AMERICAN BALLOON FACTORY, LEE SUMMIT, MISSOURI

Ms. ILAMES. Good morning. My name is Jan Ilames. I'm the owner of American Balloon Factory. We're a wholesale balloon company. I am a constituent of Karen McCarthy. Thank you for letting me be here.

This is my busiest time of the year, but I had to take time to come here this morning because I didn't feel that I could afford not

to be here. I want to share with you the importance of what Rich Van Buskirk of the Small Business Development Center Program has done for my company and I will be brief.

I started my company several years ago in the basement of my home. I learned a lot about my industry and a lot about business through daily experience. I'm a creative person. I know how to set up stores. I'm a great sales person. But I do not have a business management degree. I never dreamed when I started this business that I would one day be purchasing $800,000 to $900,000 a year in inventory, that I would create jobs for 12 employees from my community or that I would be bringing sales in from the entire Midwest into my little city of Lee Summit.

Gut instinct in business, however, will only take you so far. We knew we needed help and in fact, I was approached by a consulting firm and they came in and for $300, examined our books for about 2 hours and then asked me for $30,000 and unfortunately I couldn't afford, since I had a negative cash flow and no profit, much of a fee for any kind of efficiency expert or any kind of business consultant.

An acquaintance of mine, Bobby Drease, who owns a company called Visual Application here in the Kansas City area told us about how very satisfied she had been with her consultant from the Small Business Development Center through Rockhurst and she suggested that we call to learn a little bit more about the program.

We did and in the 3 years before we had met Rich Van Bustkirk, my company just couldn't seem to break that million dollar sales barrier. We were static. I couldn't do more year after year than I had been doing the year before. Our overhead costs continued to increase yearly and I was in a more and more competitive market.

Rich examined our balance sheet. He looked at our general ledger. He interviewed my bookkeeper, my operations manager and my sales manager. We began with a time allocation for employees. He recommended techniques of matching their work with startup work time breakdown considerations and now we continually revamp and reorganize the way we take orders, ship orders, select the orders and we update our orders according to some suggestions from Rich which has made us much more efficient.

He then helped us project a yearly budget with a monthly evaluation of that budget from a computer program that he personally wrote. This allows us to see where spending was over or under the previous year and it lets us compare to our projected figures. This program lets us see where we're wasting money and it also lets us see exactly where our money is going.

Rich helped us to secure two loans and I am confident we would never have been able to get them without his support. As a team, he went to the bank with us. We secured one loan for $201,000 and a second one for $241,000 for a couple of large projects that came our way from Hallmark Cards here in Kansas City. Without those loans, we would not have had that business and that business would have gone to another company in another State.

Rich is presently working with us to increase our sales and as a business that couldn't break that million dollar barrier, I'm glad to tell you we did $1.3 million in sales in 1994 and reduced our overhead $25,000.

In 1993, my company had a $6,000 negative profit. This year we happily paid taxes on $35,000 profit.

Chairwoman MEYERS. Happily?

Ms. ILAMES. We did. We found the breadth and knowledge of the expertise that our consultant had was absolutely extraordinary. In our experience, the only improvement that I can think of is a better communication to businesses like mine, the availability of this program. I wonder where I would be if I had done this a year or two sooner.

I would like to thank you. We would like to say thank you to the Small Business Development Center for the success that they have brought us and we feel that Rich Van Buskirk has helped us become a sound business with a bright future for growth.

Thank you.

[Ms. Ilames' statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Jan, in spite of the fact that you hurt your credibility badly by saying you paid your taxes gladly. You are all just excellent spokesmen for your programs.

Congresswoman McCarthy and I will share what we have heard, what we have learned today with our colleagues. You all serve such an important role because so many small businesses need assistance and just don't have these larger amounts of money that have been referred to pay consultants and so we're very grateful for your testimony and thank you for being here today.

PANEL THREE: SMALL BUSINESS ADMINISTRATION PROGRAMS FROM A REGIONAL PERSPECTIVE

We will begin panel three immediately because Mr. Kent has a lunch that he is speaking at so we certainly want to hear him and I thank you very much for your patience and I know Ms. McCarthy has a lunch that she is speaking at so we will try to get started and hear from Mr. Kent and you may say whatever you would like to say Mr. Kent. I presume you've been taking a note or two as things were said this morning and then we would like to hear your response to some of the concerns and questions that have been asked this morning, so Mr. Bruce Kent.

TESTIMONY OF BRUCE KENT, SMALL BUSINESS ADMINISTRATION, REGIONAL ADMINISTRATION, KANSAS CITY, MISSOURI

Mr. KENT. Thank you for allowing me to be with you. I've looked forward to this, Congresswoman Meyers and Representative McCarthy, having known both of you personally. I enjoy this process. I have formal remarks which I would ask at this time be admitted to the record, although I will speak from those remarks.

I think the panels that have gone before me have spoken far better than I of the value of the SBA. Some of them have identified problems and the great benefits SBA brings to our society. Immediately, I will respond to those comments. I will try to be very brief and then respond to questions you might have.

I will respond to the question regarding the need of the SBA as was identified by the banking community earlier this morning. By the nature of banking, they have a responsibility on an immediate basis to return on their investment. By the regulations of the FDIC

and by their own internal controls, a bank can only absorb a half of one point up to perhaps a point loss. Anything beyond that would become excessive and it would place that bank at risk. That's because they're looking at different values. The SBA has a current subsidy rate of about 2.7 percent, which is essentially our loss ratio, but we do not measure that by cash on cash return. We have a longer view and the longer view of that is that the jobs that are created and the opportunities created in our society for employment—that measure cannot be overestimated—the value that has been brought to our society. I think the remarks that have been given already this morning reflect that accurately. So, to reflect on the need of the SBA in regard to the loss ratio is self-evident.

What we have done in the last 2 years in the attempt to aggressively move SBA forward has been in two fields, the first being that we have tried to create greater access to capital. Those reflected today the discussions you've had for example our LowDoc Program. I would point out in this particular region, because of the leverage factor, we have been very aggressively working with our CDC's regarding the 504 Programs and we have a substantial increase in 504 loans in this district because of that, working with the various CDC's, including Avenue Area and the 13 other CDC's that we work with and that has had a very substantial impact on the economy.

We have had great success with that. In 1994, our increase of loans was 34 percent. This year to date, we have experienced approximately 60 percent on increase in loans, a large portion of that of course is through the LowDoc.

LowDoc now constitutes approximately 56 percent of our loan approvals for fiscal year 1995. To take on this effect, we all recognize that Congress and the taxpayer have demanded that we do more for less. In order to do that, over the last 2 years, subject to the reorganization we are now proposing we reduced the central office by 12 percent in staff. We have reduced 62 percent and actually the correct figures in my judgment, 80 percent of our staff at the regional office for Region 7. We have reduced our budget in 1993 to 1994 by 33 percent; 1995 proposed reduction was at 69 percent. The President's '96 budget request, I think you are familiar with, proposes around a $220 million reduction. So, we're taking very aggressive steps to meet the needs of this administration and the needs of Congress in terms of doing more with less.

The essence, the nutshell of that, is that we are attempting to do approximately one third more business with one third less staff. We're moving quickly to that conclusion.

At the same time that we're doing that, we're also working aggressively with our 504 partners, the CDC's. We're working with the SCORE Program that has been eloquently spoken about today and the various Small Business Development Centers trying to reorganize and make those more efficient to use, to bring together and educate the public and the banks.

I cannot stress enough that the major way that we're doing this is by changing our attitude. Historically, we have always treated our banks as our customers. That means that the public was not necessarily the first point of service. Today, we have changed our attitude. Our banks are our partners and together we render serv-

ice to the public and in so doing, do it far more efficiently at far less cost with far greater results. I don't want to extend my remarks any longer—you have the information far superior to mine, but I will stand for questions and I look forward to answering those. Thank you.

[Mr. Kent's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Kent. I do think that you've been an excellent spokesman for the SBA. You haven't been afraid to make suggestions and certainly I will say that for those of you who are listening who may not be as familiar with the SBA budget, it is really a very small agency. It's only about $800 million. Not even $1 billion, among many of those Agencies in Washington that are multibillions and the President's reductions for next year are indeed, as Mr. Kent mentioned, $220 million which means better than a one-fourth reduction.

So for an Agency that is extremely valuable, I don't think anyone can say that the SBA has been unwilling to do their share toward arriving at a balanced budget in the year 2002.

Some comments that were made this morning, could you comment about the additional fees proposed by the administration for the 7(a) Program and 504 and the difficulty this may place on the borrowers?

Mr. KENT. In the measure of that, I think to keep it in perspective is, as you're aware, a loan, an average LowDoc loan of $54,000, the net increase of that payment will be $13.50 per month. On an average loan of $170,000 which is our new average loan made in the SBA, that cost increase is $51 per month. There are, I think, $782 increased in the capital outlay on the larger loan and I think it's like $108 on the smaller loan.

Those are the type of numbers that we're discussing. That, plus the guarantee fees that are increased—but those are essentially passed off.

The question is how can we meet the increased demand in such a way that we're still responsible and that we can fit the need to go on the glide path to a balanced budget. That becomes the question. If we are going to service the entire small business economy, which includes the $100 million loan to the $1,000 loan, how do we reach that? The answer to the question is there must be shared sacrifice.

Do we want to have small business development centers to have to charge $300 for a program? Of course not.

Do they want to do it? Of course not. But the reality is we must find measures to make this budget work.

So if we return to the essence of those numbers, the $13, the $51, in terms of reflection and will that make a deal go or not. The answer in my judgment is it is balanced and that we can do that and it can be absorbed by the system. Most importantly, by doing that, we will be able to continue services to all elements of the small business community which is critical.

Chairwoman MEYERS. I have another question or two, but I'm going to defer to Ms. McCarthy.

Ms. MCCARTHY. Madam Chairman, I very much appreciate that and I will be brief. I wanted to explore with you, Bruce, the decentralization that's going to go on with our field offices and our co-

locating these regional and district offices which is all a part of this greater efficiency, doing more with less, but what will that mean to our constituencies who are here and who need the service?

Mr. KENT. As I'm sure you know, Representative McCarthy, the process will be trying to reduce the number of district offices to one per State on a given basis although there are exceptional States and I presume that Missouri may be one of those exceptional States. We also have proposed to close most of the branch offices and the posts of duty offices. That process has been estimated to save substantial funds in our operation.

The constituency will be affected, there's no question about that. What we must do is measure that, again, measure that by the least amount of damage that would be done for these deficiencies. We're able, because of a technological society to reduce, any possible loss of service because we now have high tech, and we have fax machines, we have computers, we have outreach on a very aggressive basis throughout the country with communications. So, the substantive loss will not be as substantial as it might appear at first blush. We are going to have to close these offices in the name of efficiency to bring down our FTE's. There's no other way you can make the budget on the glide path that we've set. To suggest that it's not a sacrifice on the part of SBA and some of those outreaches would be in my opinion would be foolish.

It is a measurable acceptable loss? I think it is.

Chairwoman MEYERS. All right, thank you very much for being here and we will see you this afternoon. Make a good speech.

I just have a couple more quick questions, Mr. Kent, and first, I'd like to ask about the utilization of packagers and their fees which sometimes seem large and we have had complaints and concerns expressed to us, maybe not here this morning, but in Washington we have and some this morning.

Can we make these, the loan firms more user friendly, so that the people won't have to pay packagers? Is there another way we can go about this? I think there is some resentment of this process.

Mr. KENT. As we continue the process of the LowDoc, of using the CDC short form packages, where we are not duplicating the services with our partners, the PLP's and the CLP's and as we bring this process down to more and more defined informational packaging, it is hoped that there will be less and less need for the packagers. They have historically served a very valuable purpose in terms that they are an intermediary doing this work process between the banks, who deem this not cost effective to do those packages themselves in terms of small loans and they are not a part of our process. It's very important to recognize that packagers are not under our control.

Obviously, if we found something that was onerous on a continuous basis, we would turn it over to the Department of Justice, but we don't have that situation that I'm aware of.

My answer to your question specifically is I think as we bring in our processes to make these loans relying more on the banking processes with our PLP's as we've done, I think we'll find that we have less need of loan packagers. I don't know of any method by which to regulate fees other than the marketplace. My understanding is the average cost of a loan packager is in the area of $500.

Now one other additional step to that would be to work harder with our partners in the SBDC's, with SCORE and all the other organizations that we have. We're working harder on our communications to get these people there rather than immediately to a loan packager. That's again communications that we need to exercise and we also need to help our bank partners exercise that communication.

Chairwoman MEYERS. Thank you for that response and one more question relating to what we heard this morning. People this morning seemed comfortable with the LowDoc process. I have had some comments in Washington that just various people have expressed to me that they are concerned about LowDoc, that there are going to be substantial losses because lending institutions and SBA are just not requiring substantial, enough information. I've been very pleased with the LowDoc process because we hear so much concern expressed all the time about excessive paperwork and so, of course, when I heard about LowDoc I was very pleased. But I certainly don't want a process that's going to blow up in our faces and cause concern about lending among Members of Congress and others. So, would you comment on that?

Mr. KENT. I have two responses. I think the banker from Commerce, Rob, identified it as well, is that in fact, what we've really done is simply put the onus back where it belonged in the first place and that's with our partner, the bank. The net result of LowDoc is that information received regarding the loan is the same as it was before, but it's not duplicated two to three times in the physical process of making the loan. The information itself is the same.

There is always a risk with a new program. But in this program from December through February, we have run three component reviews and surveys, matching our loans through LowDoc through our regular 7(a) Programs and coordinating to see the currency rate and see if we can discover or identify a loss factor beyond normal and today, for example, have a 90 percent currency rate in our overall loan portfolio in the Kansas City District.

We at this point in time have found no variance. As to earlier statistical data, that will give us reliable information regarding this, it is a responsibility that we bear to keep an on-going review and survey on that until we have enough history to know where the data is. I think the best evidence of this is that when we, in our original survey found that there was some difficulty with fraudulent tax returns, the easiest answer was to go to a spot program or go to a convenient way which would allow us to say we have done something.

We reacted very strongly, somewhat to the chagrin of our banking partners, to say that we will have tax verification on all our 7(a) loans, including LowDoc, until such time that we know that fraud is not occurring or is statistically reasonable.

That was a difficult step to take, but it was taken because we do have the responsibility to see that these programs work, especially the new ones like LowDoc.

So I think in conclusion, that we are very aware of that danger. We are keeping a close survey on it and spot checking it and hope that it will not occur. If it does, we will react quickly.

Chairwoman MEYERS. As with the last panel, I think Karen and I will have some questions that we would like to submit to you in writing and I appreciate your patience so much in waiting this morning and we have profited from hearing from you.

Thank you very much.

Mr. KENT. Thank you.

Chairwoman MEYERS. The hearing is adjourned.

[Whereupon, at 12:20 p.m., the committee recessed to reconvene at 2 p.m., the same day.]

PANEL FOUR: TAX ISSUES IMPACTING SMALL BUSINESS

Chairwoman MEYERS. I think if we can come to order, I think I'll go ahead and start because I can start with a brief opening statement because Karen McCarthy has heard quite a few of my opening statements by now and I think she will be back in a few minutes. She had a speaking engagement and so may have been a delayed a little, but she will be back for this afternoon session.

This afternoon, we will hear from three panels of citizens from the Kansas City area. Again, I expect the points of views will be distinctly local, not the usual expert Washington witnesses the committee often hears from in the Nation's capital, although I will say that a lot of the experts we heard from in Washington, we call in from all over the country and some of the witnesses we're hearing from this afternoon, as a matter of fact, have been people who we have requested to come in and testify before us before.

A major purpose of this field hearing is to listen to what citizens in this area are saying and suggesting so that we can bring their ideas to the Small Business Committee's work. This year, the new leadership in Congress has assigned the Small Business Committee specific oversight responsibility for regulatory reform and paperwork reduction. I think you're probably all aware that the Regulatory Flexibility Act has been on the books for a number of years, says that all agencies, when they promulgate any rule or regulation involving small business they must review it for its specific negative impact on small business. It's been ignored because there has been no enforcement mechanism in it and so this year in the first hundred days we did put in an enforcement mechanism and I think that's appropriate. I think that will be helpful. We also passed a paperwork reduction bill.

This jurisdictional interest in those two areas is in addition to our interest in the Small Business Administration's Programs and in other important policy concerns that significantly impact small business such as the tax structure and as we begin to talk more about health care reform, I imagine that we will return to hearings or that we will begin to have hearings on health care reform.

Increasingly, we find that fostering a healthy economic environment for the entrepreneurial spirit of small business is the most vital factor for economic growth and the jobs and the employment opportunities that accompany it. Small business is the most dynamic aspect of the American economy.

Our first panel will discuss tax issues. Let me note, I'm pleased Congress passed the 25 percent health insurance deduction for the self-employed, just before the recent recess. That was my bill and I was very pleased with it. They didn't renew it last year and so

I introduced a bill that said let's make the 25 percent retroactive and make it permanent in the future and we did one better than that. We made it retroactive at 25 percent and permanent at 30 percent, so I'm very pleased about that. We will continue to work to try to get it to 100.

On the regulatory reform front, I'm pleased that two pieces of the Republican contract, the Paperwork Reduction and the Reg Flex Act were passed. I mention this because the witnesses in our second panel will discuss the consequences of regulatory and paperwork burdens on small business. They will point out some specific targets that the committee can focus upon in the upcoming weeks.

The first 100 days of Congress have effectively placed some legislative tools to reduce regulatory paperwork on line and now our committee will turn to the hard work of oversight and seeing to it that something actually happens to reduce regulatory excesses and to reduce paperwork.

I was going to say it's easy enough to pass the bill, then we have to follow through on it. But it really isn't easy to pass the bill. That's hard too and then, but we do want to follow through and make sure that something actually happens.

The final panel will be an open forum. We will hear a number of insights which will serve to highlight the Small Business Committees' overall interest in the role that small business plays in our economy. I believe they will crystallize and summarize the range of ideas we will have heard throughout today's hearing and I thank you all for being here. I think we had an outstanding session this morning and I look forward to the session this afternoon and so if our first panel of Al Martin, Dennis Parker and Linda Taylor will please come to the table, we'll begin on this afternoon's session.

Our first witness this morning will be Al Martin of the firm of Shook, Hardy & Bacon of Overland Park.

Mr. Martin?

TESTIMONY OF AL MARTIN, SHOOK, HARDY & BACON, OVERLAND PARK, KANSAS

Mr. MARTIN. Chairperson Meyers, thank you very much. How many congressional hearings have we had in Johnson County?

Chairwoman MEYERS. Well, I had one. I think maybe '87 on health care reform and its impact on small business and just generally on the issue of health care reform and I can't think of others.

Mr. MARTIN. Well, I want to thank you very much for this one. I think a lot of us feel like there's a strong breath of fresh air blowing through Washington, DC and elsewhere in the country and we know very much that you and other Members of Congress are really listening to business and appreciate it very much.

It's a pleasure to have the opportunity to testify here before you. How much time should we each plan on this morning?

Chairwoman MEYERS. We would like to have you limit your remarks to 5 minutes, Al, and we have the lights on and we'll give you an extra 30 seconds because we've had this conversation, but we—and then when the light turns red, don't feel like you have to break off in the middle of a sentence, but we would like to have you summarize as fast as possible after that.

Mr. MARTIN. Thank you very much. Well, I have given you a copy of my written testimony. I'm here, I suppose, in at least three capacities. I am a practicing lawyer. I do a lot of tax and business work, represent approximately 600 to 800 small businesses. It's the bulk of my practice. I'm also president of the Small Business Council of America which is the only small business group which focuses exclusively on Federal tax and employee benefits issues and third, I'm a tax chair of the White House delegation to the White House Conference—to the Kansas Delegation to the White House Conference on Small Business and I have incorporated our Kansas recommendations in my remarks and in my written testimony.

It's a pleasure to see you again. Some of this will be a little familiar to you and will resemble what I presented before your committee in Washington, DC on January 18th, but I have refocused it and taken it beyond the contracts since you've passed that essentially and we appreciate that very much.

Essentially what I would like to focus on initially are some specific proposals which I think are important for Congress to focus on and I know, in fact, several bills in some of these areas have already been introduced. Point one deals with Federal estate tax. It has not been indexed in any meaningful way, in any way with respect to inflation since 1981. Studies have shown since that only 14 percent of family businesses survive into the third generation and one of the main reasons given is the Federal estate tax.

Some members of our group, Small Business Council of America, as you know, are strongly of the belief, such as Harold Abolenksi, who I know has also testified in Washington that the estate tax should be completely repealed, that for the small amount of money, relatively speaking, that it raises and the enforcement costs in connection with it, there have been at least 10,000 cases dealing with valuation issues in Federal courts, that it's not worth the candle.

On the other hand, I can see the public being a little skeptical about whether the estate tax should be completely eliminated and it might be perceived as a boondoggle for the rich, but when the estate tax is at a level where it reaches people's homes, forces family farms and family businesses to be sold, I think that serious attention should be given to the issue.

The $600,000 per person exemption, technically a credit equivalent should be increased to at least $1 million. I know the contract has it going to $750,000. I think that's good. I think it should be higher. Trust taxation was changed a couple of years ago to make trust tax rates confiscatory. When a trust reaches the level of income of $7,500 a year, it reaches the 39.6 percent Federal bracket and of course, individuals don't reach that bracket until they have significantly taxable income. I think trusts should be taxed in exactly the same way as individuals.

Finally, retirement plan assets used to be completely exempt from taxation. They are subject to both income tax and estate tax. They subject to generation skipping tax, if they go to grandchildren. They're subject to a 15 percent excise tax if the amount is too large and I know in Harold Abolenski's testimony he has a good chart in his January 31 testimony that someone with a retirement plan balance who does not leave it to a surviving spouse winds up transmitting approximately 14 percent of the balance and

the rest goes to the Government in the form of excise taxes, estate taxes and income taxes. So, I think that should be looked at hard.

Basically, the second item deals with qualified retirement plans. We have listed nine things that are specific to those, the New York State Bar chaired by Alvin Lury, who was the original IRS Commissioner or Assistant Commissioner who implemented ERISA, reached the essential conclusion that everything that's happened to ERISA since 1982 should be repealed. We're not recommending anything quite that strong, but the Federal pension law has been micromanagement in the extreme. Most practical recommendation I could give you would be, I know that you're concerned about reducing the size and scope of Government would be to significantly reduce the size of the Joint Committee on Taxation and replace the people who have made a career out of making these tax law changes and then writing the regulations about the changes.

I have many clients who have abandoned their retirement plans because of the complexity in the law. The IRS is now, as you know, is targeting small plans for audit. They have lost every case in the small plan actuarial audit program. They have still not ceased. That program has gone on for 6 years. They've lost three in the Federal circuit courts. They have only targeted small business and small business plans. They are now targeting plans with less than 10 participants for audit in certain cases, plans with less than 50 participants in other cases, and plans with under 100 participants for other issues. Suffice it to say that this is discriminatory and should be reviewed by Congress.

Our tax laws and retirement plan area, welcome Congresswoman McCarthy, good to see you, are frightfully complex and they should be dramatically simplified to encourage saving. I cite a few cases in here. There's one that's now pending before the Supreme Court on how to amend a plan and what language needs to be in a plan to be able to amend a plan. It's hard to imagine something much more ridiculous, but that case has gone to the Supreme Court just recently.

There are many other cases where people's retirement plans have been disqualified. There's a case of a dentist in Philadelphia whose plan was disqualified. He started out with $1 million, worked his entire life. They said the plan should be disqualified. It had been administered exactly in accordance with the law. He missed one amendment that had it been done wouldn't have made a bit of difference. The IRS audited the plan, disqualified the plan, disqualified his IRA rollover. He basically lost half of his plan and then I have heard, although I have not seen that a 6 percent tax per year was imposed on his IRA which would then have eliminated his retirement plan. The policies are ridiculous. Now you can't go to the extreme of saying people can play fast and loose with the rules, but the penalty should fit the crime and it doesn't in this area any more.

The rules on independent contractors should be reviewed and clarified and simplified. We have proposed in the Kansas Delegation to the White House Conference a proposal which I think works and I've listed it there. It's item three. Our recommendation to reduce capital gains tax, we know you're working on.

We have a specific life insurance proposal. You can have a transfer for value to a partnership, but not to a corporate shareholder. In other words, there's an exception in the tax law. It doesn't make any sense to allow it in a partnership and not in a corporation, so we proposed a change there with some specific language.

In addition in 1986, changes were proposed to treat accountants, veterinarians, attorneys, physicians, chiropractors, basically all service professionals, consultants, differently than any other type of people, viewed by Congress as apparently being inherently evil. I don't think that they are and I think they should be treated the same way as everyone else and I think those provisions should all be repealed. It would greatly simplify the code, take us back to where they used to be and dramatically help the accountants whose so much of his workload is concentrated now in the calendar year. That's item five in our recommendations.

If I can finish my sentence, this will be a long sentence, but I'll quit in a minute. The sixth item is to restrict tax exempt entities from engaging in commercial activities. I know Congress has looked at that before and essentially punted. The people in the Kansas Delegation of the White House Conference, however, that's where this recommendation comes from, feel strongly about it.

The seventh recommendation is that really the seventh and the next one below that is from the Small Business Council are the same and that is that there should be a mechanism in the tax law for input from small business, really greater input in general before tax changes are implemented.

Wilbur Mills, I think, had a better sense of style and policy and did this once every 15 years. There was extensive debate. Now, as you know, it's done every year or two, changes are frequently voted on and conference committee comes up with new changes. One of the classic examples of that occurred in 1982 when Section 416 crept into the Internal Revenue Code that was not in the House bill, was not in the Senate bill, came out as a compromise of nothing and it's 5 pages long in teeny print, Internal Revenue Code. Basically with no discussion, debate whatsoever. That's the sort of process that just needs to be changed.

Finally, and this is a specific item, we believe ESOP provision should be broadened, Employee Stock Ownership Plans, to allow S corporations to do so. Now how will we pay for all this? It's quite easy. In addition to reducing spending generally, we have material in our statement that shows that Government pensions are much more generous than private sector pensions and if they were brought into line with private sector pensions, it would largely pay for everything that we have proposed.

Thanks a lot.

[Mr. Martin's statement may be found in the appendix.]

Chairwoman MEYERS. Well, I thank you very much, Mr. Martin. Mr. Martin is my appointee to the White House Conference and he's been president of the Small Business Council of America and certainly has an excellent background.

I think we're definitely going to be looking at a couple of things you suggest and you can be thinking about this, Al, because we did, as you know, increase the estate tax from $600,000 to $750,000 and

I thought we indexed it, but we'll come back to you for comment later.

Our next witness is Mr. Dennis Parker and he is with Independent Telecommunications Network, Inc., Overland Park, Kansas.

TESTIMONY OF DENNIS PARKER, INDEPENDENT TELECOMMUNICATIONS NETWORK, INC., OVERLAND PARK, KANSAS

Mr. PARKER. When I sat down here I asked Linda if she didn't want to be considered a rose between two thorns, but now Al's on this side and Linda is on that side. They're both lawyers. I'll be the rose.

Mr. MARTIN. We're used to that role

Mr. PARKER. ITN has been operational for 5 years and we currently employ 75 people in three States. ITN operates a nationwide fiber signalling network and we sell services to telecommunications companies in North America. Some of the services you may recognize that we sell are caller identification, calling line and calling card validation, 800 calls, service routing and cellular service, if you've got a cellular phone. We're the ones who find you and route your calls. About a thousand companies in the U.S. use our services today.

As a businessman and as a private citizen, I don't consider myself an antitax nut. I've always paid my personal taxes without protest. The companies that I've led have always paid theirs, but I want you to know that I no longer smile when I'm doing that. Unlike one of the panelists this morning, I don't happily do that any more.

To illustrate and bring a point home to me this year, this year, I paid more personal income taxes than my gross income was in 1984 and I suspect I'm not alone in that regard and perhaps some of you really do feel my pain, but our subject today is small business and the taxes on small business and on that subject I'd like to make several points and offer some recommendation. First, the points.

First, demise of the investment tax credit has hurt small business and I would believe probably more so than large business because the credit really helps small businesses get started and move up the profitability curve.

Now I ask the group here to champion a review of that and to reassess the benefits of the investment tax credit on the development of small business in the U.S.

Second, if the investment tax credits can't be restored, then take a look at the Section 179 deductions and see if we can't liberalize those. Those deductions on equipment used in businesses could help offset some of the losses and some of the pain from the loss of the investment tax credits.

Third, reductions in business meal and entertainment deductions hurt small businesses much more than large businesses. Yet, the rules apply relatively equally. Most business people know that it is much more expensive to attract new customers which small businesses are obsessed with doing than it is to keep existing customers which larger businesses mostly do. Perhaps these deductions could be scaled according to the revenue or the size of the

business to give a boost or a leg up to small business in getting started.

Fourth, small businesses have difficulty keeping up with changes in the tax laws and in administration of Small Business Administration and regulatory rules. Most small businesses can't afford a full-time attorney and a full-time accountant. But if they make a mistake, they can expect little mercy, especially with the Internal Revenue Service.

Please work to simplify the tax laws, help get the interfaces to the Government organization streamlined so they're easier to use and understand and reduce the SBA in regulatory hoops that we have to run through.

The face of American business is changing and the Federal and State Governments, we hope, can help shape that change in a positive way. Small businesses are leading the changes with innovation and aggressive application of new technology. Larger, more entrenched businesses typically don't do those things because they involve a lot of risk. We must support and encourage prudent risk taking. Some States have incentive programs to help fuel business and people development. Kansas, for example, offers tax credits and incentives to companies for introduction of new technology and for training or retraining people in high technology skills. That program encouraged ITN to invest in a new line of business last year and to hire and train five new people to get that line of business moving. We would not have made that investment without the encouragement from the State of Kansas. ITN expects to do very well with that line of business and to hire and train more people in it and I hope the Federal Government listens to that.

I am aware that the Federal Government is trying to assist and encourage small business. Your presence here today is testimony to the good intentions of the Federal Government, but many of the programs offered simply do not work or they are less than effective and mostly because they are difficult to apply for and they are difficult to qualify for.

Late, some of that has changed. This morning we heard some of the things the Small Business Administration is doing and I applaud that. They seem to be really interested in listening to what's going on in small business and responding to simplify their interfaces. With that seemingly underway, won't you please take another look at the tax laws and procedures to see if you can give us a little more help in that area?

To close, the Federal Government must be more sensitive to the impact of the tax policies and regulatory changes on small businesses. Those policies and changes frequently made in the name of progress too often crush the life out of growing small businesses. That's especially true of the changes that we make to "close loopholes in tax laws" and to "avoid welfare to businesses."

Such actions often become the noose that chokes small business that just happens to be in the way of trying to do the right thing. In most cases the only lobby efforts that we can afford are sitting at this table today. We can't afford PAC's and we can't afford high dollar campaign contributions. We can't afford Washington offices full of beltway bandits, that's why we are very grateful that you've

come here today to listen to us. Please hear us. Please hear us. We need Government as an ally, not as an impediment.

I am encouraged that the committee has taken the time to listen to today and I hope you do this in other places.

Thanks for inviting me and I wish you well in your efforts to help us along.

[Mr. Parker's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much for your excellent testimony, Dennis. I'm sure that we will have some questions for you.

Our next witness is Linda Gill Taylor, Of Counsel, Inc., Kansas City, Missouri.

TESTIMONY OF LINDA GILL TAYLOR, OF COUNSEL, INC., KANSAS CITY, MISSOURI

Ms. TAYLOR. Thank you, Congresswoman Meyers. We appreciate and I, too, want to thank you for holding these hearings and thank you, Congresswoman McCarthy for your presence as well.

Even though I am an attorney, I did take the leap 7 years ago from private practice into entrepreneurship and I founded a company, as you've said, called Of Counsel, Inc. which is a temporary legal services company. We provide attorneys and paralegal on a contract basis to the legal community. Our company will be 7 years old next week.

In my written testimony which I submitted, I did speak from two perspectives, a personal CEO perspective, but also from the perspective of chairing this year the board of advisers of the Metropolitan Entrepreneurs Council which is the small business arm of the Greater Kansas City Chamber of Commerce. I'm pleased to say that both Al and Dennis sit on that board as well as one of your other witnesses who is here today, Chuck Vogt, and I want to convey to you and to the committee some sense of our discussions since the Board of Advisers represents some 2,700 entrepreneurial and small business companies in the Greater Kansas City metropolitan area. I thought you might be interested in that group's opinions on some of these issues.

The MEC board has recently discussed in a general way taxation and the Small Business Administration in two of our issues roundtables since the first of the year.

I was very interested at one of our meetings to note that approximately half of the businesses represented in the 33-member board of advisers are Subchapter S corporations such as my company, Of Counsel, and in the discussion we had regarding tax issues, the group rather quickly agreed that the negative impact of individual tax rates on business growth cannot be overstated. The cash required every quarter every year to pay individual taxes at high rates greatly reduces the less expensive, but internally generated cash available for operations and the larger the company and the more profitable it is, the more the cash goes out the door every quarter to the Government instead of funding expansion in technology, staff and other business growth.

Additionally, constant changes in and needless complexity of the payroll tax deposit system make our business life much more complex than it needs to be. In the case of my small company, our pay-

roll being temporary services in nature fluctuates in numbers wildly from week to week and so we are constantly faced with challenges, sometimes we have more than one system in place during a year. We have had change from year to year in the timing of deposits, in the structure of deposits and I think as companies grow there's just too much change and uncertainty in that system and it's needlessly complicated.

When you combine that with different State requirements, Missouri and Kansas, and different employment security reporting and deposit requirements, that whole system is really cumbersome and costly to administer.

I do want to second Al's testimony with regard to the independent contractor employee issue. That is certainly an issue that affects all companies increasingly today and certainly the industry in which my company exists, the temporary services industry. I think Al's suggestion with regard to making the full payment by the contractor a complete defense to an audit is an excellent suggestion. If the taxes have been paid by the person, then there should be no liability to the company that has either provided that person or has used the service of that person.

The MEC board including members Bill Ward, who I understand had a conflict and couldn't be here this afternoon, and is the CEO of OTR Express, Al and Dennis are going to be developing in the next few weeks some more firm tax positions on behalf of the MEC and we will certainly share those with you as they become more finalized.

I also want to convey to you the sense of the MEC's discussion regarding the SBA, although I realize that's a little bit off our tax panel topic and that discussion revolved around the issue of whether the SBA should continue in its present form or whether some or all of it should be privatized.

Our board believes that just as there are certainly areas of activity of the SBA where economies could be achieved, there are also programs such as the loan programs and minority and women programs which are returning a net benefit to our economy and which should be retained. We encourage a cost benefit analysis program by program to determine which programs are actually profitable to our economy and which programs are not returning a sufficient economic or social benefit to justify the cost.

We would like to sound a special note of caution with regard to the minority and women business programs. In our opinion, and particularly I would emphasize this as an individual, it's important not to sweep aside SBA's profitable programs in a frenzy of affirmative action backlash. In particular, the micro loan program and the SSBIC Programs have special significance for Kansas City.

I know, Congresswoman Meyers, that you are particularly aware since you announced the micro loan program for the State of Kansas that the center for Business Innovation runs. That program has been successfully running at the center for nearly 2 years now. Loans have been made in the total amount of $1.2 million and these are in $25,000 and less increments. So, that's a lot of individual loans to add up to $1.2 million which have been loaned to date to 63 micro businesses. These loans have created 186 jobs and yet 2 years later the amount in default is $1,300 which is a pretty ad-

mirable percentage. I think any banker would be envious of that loan default rate. That program, I think, is one that has really gotten capital on the street into the business community, not only in a metro area, of course, but statewide in Missouri and statewide in Kansas.

Moreover, as I think you are probably aware, an application pends currently before the SBA for an SSBIC called Capital for Entrepreneurs which has been established by the center for Business Innovation with a grant from the Kauffman Foundation. If the license is granted, this SSBIC could grow from the $3 million granted by the Kauffman Foundation to potentially $12 million, all targeted for women and minority-owned business in seed stage, debt and equity investments.

I've been chairing the Women's Investment Committee over the last 6 months and I can tell you that over 300 applications for investment have been received since the original seed capital fund was announced last November.

Currently, there are investments reaching term stages in four to six companies and many more waiting for review. The deal flow from quality companies owned by women and minorities is accessed and stimulated by the presence of these three investment committees which are comprised of women and minority business people and community leaders.

I think you may have heard this morning from Bill Reisler, with K.C. Equity Partners who is also an MEC board member and Bill may have mentioned, although not having been here I don't know, how few minority and women-owned businesses have approached his company for funding which is some evidence that the deal flow isn't reaching SBIC's, but through the structure of Capital for Entrepreneurs and the way it is set up with these investment committees, obviously the deal flow from these companies is being stimulated and accessed.

I think this SSBIC, if it's granted, has the potential to be an excellent model for how an SSBIC can be set up and run successfully and be positioned for success, and I hope this program is given a chance on economic terms before women and minority programs are eliminated and decisions are made about the SBA's continued existence.

I thank you for the opportunity to comment today and to share with you some of the thoughts of the MEC Board of Advisers.

[Ms. Taylor's statement may be found in the appendix.]

Chairwoman MEYERS. All right, we thank you very much for being here, all of you. I have a question and I'm sure undoubtedly Karen has some questions.

In the Contract with America, we enacted a number of tax changes. Some of you, I know, are aware of these or at least aware of some of them. We restored the home office deduction. We increased the amount of money that businesses can expense or write off in any one year from $17,500. We doubled it to $35,000. We increased the estate tax threshold from $600,000 to $750,000. We enacted a 50 percent capital gains tax rate. We passed something called neutral cost recovery which I hadn't been familiar with in the past, but is a way of writing off over several years amortizing large pieces of equipment, taking into account inflation, so that in

some cases, you are writing off more than you actually paid for the piece of equipment. That one has some benefits to the Treasury in the first 5 years and then after that, it is a terrific money loser. That's the only problem with that. It is, I think, more help to larger manufacturing concerns, I think, rather than small business, but it seems to be very important to some firms and elimination of the corporate minimum tax.

We also, in nonbusiness taxes did a $500 per child tax credit for all those with incomes of up to $200,000. I was one of those who thought that threshold should be lowered, but we did not get the threshold lowered. We increased the amount of money that older people can earn without losing Social Security benefits from I think the current $11,000 to $30,000, I believe, and I think that's it. But now, my question is this, those are of tremendous benefits to people as individuals, and to businesses of various types. Would we have been better off to not do that and just lower the rates?

Al?

Mr. MARTIN. How far?

Chairwoman MEYERS. I should have asked Dennis.

Mr. MARTIN. That's certainly a legitimate debate and that will carry on to what looks like it's going to be an election issue, if nothing else, in '96 about leveling out taxes, reducing rates, although it's hard for me to imagine that you can have everybody reduce rates and receive reduced rates and obtain the same general level of revenue. But I think that's certainly a viable perspective and in my mind what you ultimately wind up battling about is an elusive concept, one of fairness. Fairness and simplicity, I think, often compete with each other and people won't agree on what they are in the first place, and so it's a very difficult concept. Clearly, it would stimulate economic activity and reduce some people's taxes to lower rates and if you don't increase rates, I suppose no one's taxes are increased and some people's are lowered. Those would tend to be the people at the upper echelon of the income structure and that may be perceived to be unfair and that's why, I think, we wind up discussing targeted tax changes that lower taxes in certain areas, but don't lower rates and we did lower rates, of course, in 1986, eliminated a lot of deductions, but have now moved, as many people suspected we would, away from that and we now have a situation where the maximum individual rate is close to 50 percent if you factor in State income tax, uncapped Medicare tax, the personal exemption phaseouts, the itemized deduction phaseouts, etc., you get right to 50 percent. So, many people are close to where they were in 1986.

Chairwoman MEYERS. I know that from what we heard and then I'd like to hear from Linda and Dennis on this, we heard in the Small Business Committee that the home office deduction, expensing increase, estate tax reform and capital gains were the four that seemed to be most important to small business, so the reason I asked the question was because Linda made the comment about the rates.

But let's hear from you on that question, Dennis.

Mr. PARKER. The rates are important, there's no question about that, but that's only part of it. There have to be some structural changes also and let me give you an example. In my business, we

are a very high technology company and a lot of the tools that we have to use are high ticket items. To give you an example, in 1991, we invested $4.5 million into two pieces of equipment. Because that equipment is classified a certain way by the Internal Revenue Service, we have to depreciate that over a 10 year period.

In 1993, that equipment is obsolete. It was obsoleted by technology. So, we have now new players coming into the marketplace with new technology at about half the price we paid for the basic equipment that we had to buy to do business. We cannot accelerate the depreciation on that, so I mean we have to take a look at some of the things that we're doing structurally, as well as taking a look at the rates.

As I said, I'm not an antitax nut. I gladly pay my taxes because it's the best country in the world to live in and I've lived in a number of them. It really is the land of opportunity, but it's being killed and we need to fix that.

Chairwoman MEYERS. Thank you. Linda?

Ms. TAYLOR. It is a complicated issue and I think Dennis is right, and Al's right too, in some sense in that it's a complex of issues that have to all kind of be fitted together. I think some of it is in the marketing of whatever tax reform package starts to move forward. Because I think there is a general sense in the country that the tax rates only affect wealthy—it's the wealthy individuals that are complaining. It's more in making the media understand that it is a negative effect on small business development at whatever level of income the owners or shareholders in those small businesses are. It's not just the wealthy that are affected by that.

So while I don't have the answer, yes, I think rates should be lowered. I don't have an opinion about whether we should have a flat tax or a consumption tax. I don't have a current opinion about what I would say our tax structure ought to be. But I do think it's in the communications to the country in the persuasive process that goes on about what tax goes forward that people can be let know that this is an issue that is a business growth issue, not just a bunch of wealthy people complaining.

Chairwoman MEYERS. It is and I was very supportive of everything that we did in the contract. On the other hand, I look back in the early '80's when growth was really stimulated and we had very strong economy, but we also had an investment tax credit which someone has inferred to and capital gains tax, limited partnerships, accelerated depreciation and it got to the point that some large businesses were paying no taxes at all and more of the burden was falling on small businesses and so then in a kind of almost overreaction we passed the '86 Tax Act which fell very hard on some people because it was such an abrupt and dramatic change and I hope that in the future you all will help us make changes in a better way. That's why I'm saying let's get some guidance and direction.

If you like these tax changes that were made in the contract, make sure that you contact your Senators, because that's where it is right now.

Karen McCarthy?

Ms. MCCARTHY. Thank you, Madam Chairman. I echo your comments and particularly the impact of tax policy and regulatory

changes on small business, that's what this field hearing is all about and that's exactly what we need help with as we work in the Small Business Committee and as we work in the Congress in the future.

In particular, over the noon break, I was speaking to an area Chamber of Commerce, Madam Chairman, so it was kind of continuum of small business interest and Al, your seven points were discussed, most of them, over that noon hour. In particular, one of the hot items was No. 5 on the life insurance and health insurance issues which are a particular burden to so many small business men and women and I certainly hope, I noticed Madam Chairman put a bracket around that one and I hope that we in the Congress do address those because I think they are in need of our attention and our reform.

I had a couple of questions to toss out to you or to anyone on the panel. I'm not hearing much any more about this tax fairness for Main Street issue that was so hot in the last couple of Congresses. The interstate catalog sales tax issue that has cost our States millions of dollars in revenue and our small businesses on Main Street have certainly suffered by the competition of it.

We, in Missouri and in our legislature, moved forward on that through State law, but I wonder is the issue out in the Federal level one where you're awaiting on court resolution or is it just not a hot topic any more among the small business interests on Main Street because States have acted?

Mr. PARKER. It's still a hot topic, yes. Other topics appeared to have pushed it aside a little bit, but it is still a hot topic. I just last week at one of my roundtable sessions, it came up about a company out of Arizona that's conducting business in Missouri and doing it through catalogs and it came up there as a damaging kind of a practice. It's still there, but I agree with you, you don't hear as much as you used to. You hear a lot of other things, and that may have been the result of the current activity in Washington.

Ms. MCCARTHY. Well, that's reassuring because I do think that is an issue that still matters financially to our small businesses along Main Street and one I championed in the State legislature when I was there, so I would like to carry on at the congressional level.

Al, I had a thought on your point four on the capital gains and Madam Chairman spoke to our change in the contract tax bill, but at the same time we did go to the 50 percent. We eliminated a provision that helped small businesses when investors on capital formation, invested in small businesses. Their capital gains was at 14 percent. That has been eliminated as part of this reform in the contract tax bill which will mean basically a tax increase for some of those.

Is that a concern that we should perhaps address either on the Senate side or in a future Congress? I know life is a series of tradeoffs in any tax bill, as expressed by the Chairman, but I don't know what that impact will mean or if it's a point of concern that you want to share with us at this time or in the future, but I want to know.

Mr. MARTIN. That in my mind was viewed as a very narrow provision without a great deal of significance and it does not bother

me that it was eliminated and I frankly think it was too new to have much of a track record to know how it was going to affect things in any event. But there are so many businesses that were exempt from that benefit. I think it only covered about 10 percent of the businesses, so as a practical matter, it was a very narrow focused special tax provision which, in general, I think is a bad idea, just to treat certain types of businesses one way and other types another.

Ms. McCARTHY. Does anyone else—OK. Well, I just, Madam Chairman, I thank you for this opportunity to pursue some of these tax matters. As you know, it's an area of interest to me and I'm very pleased to be on your Subcommittee on Taxation and Finance, and will continue to explore these matters with you.

Thank you very much.

Chairwoman MEYERS. Thank you, Karen. I would like to ask if any of you would like to comment on your opinion of the flat tax concept. Would it be helpful to you as small businesses, would businesses give up any favorable provisions that they have in exchange for this simplicity? I do think that some changes are definitely going to be on the front burner, whether they'll pass or not, I don't know. But definitely flat tax is going to be considered. There are strong advocates in both the House and the Senate and some kind of consumption tax, I think. We see Richard Lugar who is a candidate advocating the sales tax, and Bill Archer, who is chairman of ways and means in the House, advocating some kind of a consumption tax, so starting with you, Al, and if you could comment briefly, I'd like to hear from the three of you. What is your thinking on that?

Mr. MARTIN. Obviously, in certain respects, a flat tax has great appeal and we have two tax systems now. We have somewhat of a flat tax system in the alternate minimum tax which you alluded to earlier which was designed to hit those that weren't paying any tax and has been largely successful.

The issue, I think, fundamentally is fairness and will that be perceived as fair? Second question will be because the very wealthiest in many cases will be paying dramatically less tax, the second question, I think, is how it will impact the middle class. The flat tax proposals that I have seen exempt people at different levels. The third question is it will have a profound effect potentially on the housing industry which again I view like '86 and the large number of bankruptcies that were caused by the '86 change in real estate which I think were misdirected and misguided. Even if they were a good idea, they were done improperly in my opinion, and way too harshly and quickly because people had made plans, business decisions and commitments based upon the prior laws.

So I know that those proposals are wildly different in various respects. The home mortgage interest deduction is one. The charitable deduction is one and so it's hard to talk about them generally, but I do agree with one of the things that you said that I think these things should be studied more carefully. Hearings should be held. There needs to be some mechanism to have this process take several years so people can really begin to understand it. They're frightfully complicated.

Chairwoman MEYERS. And to adjust.

Mr. MARTIN. And to adjust. I mean I've got some statistics here, a lot of them come from Harold Abolenski, a great tax lawyer and a great person in Birmingham, Alabama, but he's personally tracked these tax changes and there have been over 10,000 code changes since 1976; 10,000 code changes—when I was in law school the Internal Revenue Code was one volume and a paperback version of the regulations was two volumes. Now the code is two volumes, the regulations are six volumes and it just continues to go on and on and we hear about tax reform simplicity, fairness and it gets worse and worse. So, I think slowing down the pace of change in my mind is probably as important as anything.

Chairwoman MEYERS. Dennis, and then Linda.

Mr. PARKER. Well, just my gut reaction to the flat tax is that on a personal basis, I like the idea. On a corporate basis, I'm a lot more leery. I think it all depends in both cases, I think it all depends on what's taxed——

Mr. MARTIN. What's income.

Mr. PARKER. Right.

Mr. MARTIN. What's deductible.

Ms. TAYLOR. Exactly.

Mr. PARKER. From a personal standpoint, I understand earnings tax. I don't understand revenue tax from a corporate perspective. I think there are too many other things that have to be taken into account. So, I second Al's vote. Let's study this thing. Make sure that we really understand what it will do for us and for the economy before we make any steps in that direction because what we have isn't perfect as it is. At least we can deal with it now. I think simplifying the whole process is very, very important to us, but let's not simplify ourselves out of existence.

Chairwoman MEYERS. Linda?

Ms. TAYLOR. I do want to echo one thing Al said and that is just the certainty and predictability of the code is important to business. You have to know when you're buying your piece of equipment, how is it going to be treated 3 years from now. The pace of change, I agree 100 percent, has to be slowed down so people can plan and predict and budget and forecast a little more certainly than we can now.

I don't know about the flat tax versus a consumption tax until I see and have the chance to look at the details because it is going to depend, does a flat tax for corporations mean there would be absolutely no deductions for corporations and it would be a tax on revenues, on sales, versus net income? I mean you really have to see what it is, what's proposed specifically, but I think particularly at the MEC, we would really welcome as proposals are taking shape, the opportunity to study them and to give you the feedback that we can.

Chairwoman MEYERS. Thank you very much, Ms. Taylor, we appreciate it.

Congresswoman McCarthy?

Ms. MCCARTHY. Thank you, I'm done, Madam Chairman.

Chairwoman MEYERS. All right. We thank you very much and we will ask if we think of further questions if we can submit them in writing. Your testimony has been valuable to us and we appreciate your being here.

Thank you.
Ms. TAYLOR. Thank you.
Mr. PARKER. Thank you.
Mr. MARTIN. Thank you. We appreciate your being here.
Mr. PARKER. Very much so.

PANEL FIVE: REGULATORY AND PAPERWORK ISSUES IMPACTING SMALL BUSINESS

Chairwoman MEYERS. If our next panel could please come to the table.

Our next panel will be speaking about the regulatory burden and let's see, I think—there he is. Our first witness will be Chuck Vogt of All Star Awards and Ad Specialties of Kansas City, Missouri.

Mr. Vogt?

TESTIMONY OF CHUCK VOGT, ALL STAR AWARDS AND AD SPECIALTIES, KANSAS CITY, MISSOURI

Mr. VOGT. Thank you. While this was an opportunity, it is also a bit of a dubious distinction in the sense that when you first get your letter, and not having done this before as Al has, I wasn't sure if I wanted to do this or not. Then I decided why not do it. I think when you get older you decide that this is an opportunity to say what you believe, although I don't know if it will have any impact. But if you don't do it, you'll look back and wish that you should have tried.

I've got a background in general business management that goes back about 40 years primarily with bigger companies Seventeen years ago I got involved with All Star Awards and we have progressed from a small company of about eight people to where we now have 26 people and a nicely profitable company. So, it's turned out to be a good situation.

It has over this period of time given me a pretty broad perspective in terms of running a small business and being involved in various size businesses. I think that when you decide you are going to say in something like this, you go with your beliefs. I don't believe any Government can create an on-going sound and vigorous economy. In other words, I don't think that by simply passing laws you can accomplish a sound economy. I think that if you could chart this on the blackboard you'd chart the growth in bureaucracy and regulations. For example, the tax laws are substantially greater and I think that's true of any law that's come about. At the same time you see productivity leveling out or possibly even declining, so there's a direct relationship here.

I think it's as if there are people out there that pass a law—Presidential appointees, Congress and the bureaucrats—who believe you can legislate a sound, economic environment through increasingly oppressive regulations. That would be great if you could. But that's like a small businessman saying I'm going to mandate, we're going to have growth and more revenue and we're going to make a certain profit. It just doesn't work that way. I think you should instead concentrate on helping create a stable positive economic climate so our free enterprise capitalistic system can reach its ongoing potential.

Our oppressive regulatory burden problems are evidenced by many, many examples. Recently the Kansas City Business Journal presented five segments on regulatory problems and so forth that were much inclusive and outstanding than I can be. Those are available and I think they should be researched and used.

On the surface, reasonable ideas become bureaucratically implemented and they become unproductive, costly and economically repressive. Further rules change and we small business people are depressed. I'm involved in a number of business type groups and networking groups, so I think I express many of the feelings that are expressed in these meetings; the frustrations we feel and the attitudes that we have.

When the rules change, you're uncertain as to what you going to do with the company; what happens with the employees in terms of do you hire more people; do you pay for health care and so forth; and what do you do with your own income. For example, do you take it out of the company so you minimize double taxation and so forth.

All this makes it unlikely we're going to be optimistic about the future, and we are therefore less likely to take the risk associated with business ownership and growth.

I think there are many examples, but you start off with OSHA and EPA. Here's a material data sheet that comes to our company. It goes on and on like this. I can't even pronounce much of it. We're supposed to keep track of these things and actually use it. The summary down here at the bottom says, "what is the real hazard on a scale of 1 to 6?" It's a 1. In other words, it's no hazard at all.

In addition, there are marginal personnel. I think I view this as basically an organizational problem in many ways. Marginal people get involved in becoming the regulator and the inspector and then they put unrealistic inspections and fines on the various companies. This tends to start at the Federal level, many times in California. Then it goes to the Federal level and then the State. At each level the regulations get tighter. As an example, the fire department came down our street and we all got fined $75 for not having some sign up—even the individual who does fingernails, because she had fingernail remover and did not have it indicated on her store window. That's how insidious and out of control this becomes.

Affirmative Action quotas are another example you've heard many things about that and I don't intend to get into. However, another illustration is the ADA, wheelchair accessibility and the Braille signage. We're in the signage business so it's been good for our business. But it doesn't make sense. The Braille people say it doesn't make sense to say that sign should have Braille when the person is blind and can't see the sign. It is an example of an idea gone haywire. It just doesn't make any sense to have letter size and all these specifications. So people start to ignore these things and you feel guilty about it. I believe we want laws that we feel good about and then will abide by them.

Other examples of regulatory burden include the health care reform cloud that hovers over us. Also product liability litigation and minimum wage tampering. Jerry Heester wrote an excellent article in the KC Star about this. For example, there are 28 pages of want

ads, 10 columns across in the Kansas City Star. You put an ad in the paper, and don't get much of a response. You've got to increase your wages to get the kind of people you need to run your business. You don't need a minimum wage law. You need to understand what the free enterprise system is all about.

Asbestos is yet another example of regulation run amok because we're finding out isn't as bad as it was thought to be. Another example is Social Security recipients. We've got a number of older people who want to continue to work. They're extremely good employees. They're great teammates but they are 65 years old and they're limited to earning only $11,000 per year. So, we have to work around that kind of thing.

We talked earlier about the tax law changes, the welfare system, and many similar areas. The net result of this is a cumulative kind of thing. There's not another law that can be passed, I don't think, to allay this feeling. But I think what you've done unknowingly—I hope it isn't knowingly—to encroach on our economic and business freedoms. You start off with a reasonable idea—business people and everyday citizens may or may not be allowed to participate. But I think our input is typically ignored. People come up—I don't think this panel doesn't appear to be that way. But the typical feeling I think we get is that staff bureaucrats write the law and from what I understand, a lot of times you don't even know what's in the law when you have to vote on it. Then more bureaucrats add to it and we let it go until it's become a law. We then become depressed by it and oppressed by it. Then we start to fight it and there's plenty of examples including all the lobbying groups. I get pages of letters asking us to write to you to tell you how unhappy we are so you will change the unwise law or regulation.

At any rate, the recommendations that I would have are covered in the contract. I complement everybody who voted for it, Gephart voted for it, Mr. Newt, everybody voted for the contract and certainly all the Democrats from Missouri and all the people from Kansas: I'm personally excited about that. But I'm skeptical. Let's see what really happens.

Chairwoman MEYERS. Write to the Senate.

Mr. VOGT. Right. Write to the Senate. At any rate, place a moratorium on new regulations and initiate—get into the vocabulary what I believe in—total quality management and constant improvement. Start picking on the most important, the most insidious laws. Revisit them and go back and really ask yourself, do we really need it, does it really meet the test of reasonableness and common sense? Do a cost benefit analysis and ask, do the benefits clearly outweigh the costs involved? The bottom line, if you're a business owner or a manager is: would you be willing to work and own a business and grow a business operating under this law? I think you can wrap it a lot of different ways, but that's what I would hope you would ask as you deal with these things.

Another recommendation is to have a timing gap. Simply before a law is voted on, really get it out there on the table so people can—I call it, get it out on the table. If somebody has a better idea, you vote it down for the time being until it can be corrected. Stop the arrogance, the hypocrisy. This is the way, I believe, a lot of business people feel about what's happening in our Government.

We don't want to feel that way. Instead we want to feel confident, optimistic and certain where we're going, not uncertain, and about our system future.

Thank you.

[Mr. Vogt's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Chuck. I think you are going to see a much more business friendly Congress. I think Karen has always been business friendly, but I think there have been some elements in the past leadership that has not been and some of the elements that you mentioned are included in the contract and we can talk more about that later, but our next witness, in the meantime, and I'll mention to all of you, if you can get fairly close to the mike and because they're fairly directional.

Our next witness is Dan Wright of Mid-America Signal, Kansas City, Kansas.

Mr. Wright?

TESTIMONY OF DAN WRIGHT, MID-AMERICA SIGNAL, KANSAS CITY, KANSAS

Mr. WRIGHT. Thank you. First of all, I guess I'm a talk show junkie so I have to say something about Mr. Martin and when he was testifying, I wanted to dittos to him, because everything he said I agree with.

It's kind of interesting, a few weeks ago, I faxed your office my complaint and now here I am today talking in front of a board and obviously I'm not real comfortable in front of a board, but I'll get through it.

I started my company in 1980 and we sell traffic signal equipment, so we sell to Government agencies which obviously I'm very much familiar with a lot of regulations and rules that Government puts on us, but today, I want to talk about one specific one and to start off with, when my company started, I started off with just myself. Today, I have five employees. In 1992, I decided to try to help my employees by implementing a qualified retirement plan called a 401(k). I did this actually against the better advice of some people who were friends of mine who also own small businesses and they told me you better not do it because you're not big enough. There's too many rules, too many regulations and things are going to happen to you. But I said I can do it, I can handle it.

I started the plan and I thought my accountant would probably be able to help me. I found out very quickly that my accountant wanted to wash his hands of anything that has to do with a qualified plan, especially under the rules and regulations where you have to file a 5,500. He says the rules and regulations change too often and therefore he doesn't want to even mess with it.

I was left to find another firm to try to help me in the filing because I, myself, even though I'm a college graduate, didn't seem to be able to figure out all the rules and regulations myself.

So I looked for a firm. I found a firm. The cost of this firm averages about $1,500 a year, administrative fees, just out of pocket expenses. Now, again, I'm not a big company, so $1,500 a year for five employees is $300 an employee. So, with this situation, the Government seems to change their rules and regulations kind of

often and because of that, this firm has to send me new paperwork to be signed every time I have to have a new piece of paper in front of me, I get an extra fee. It's not free. In other words, the $1,500 was the base fee and I get added on every piece of paperwork that's generated by the Government. So, it gets to be fairly extensive on that regard. Plus the fact that we still are having to take care of in-house, as far as our company, we still have to provide them with some information.

In a 5500 package which I brought with me today, this is the Government 5500 package that I received. I got this some time in March——

Chairwoman MEYERS. Looks like an income tax return. It makes everybody's blood run cold.

Mr. WRIGHT. Each one of these forms, I don't know how many of them I have to fill out, but there's a lot of them. Inside on the first page of this is a reminder that says "most qualified plans must be amended by the end of 1994 plan year." I got this in 1995.

So this is something that obviously, hopefully the people who are doing my plan up there got this before I did.

I've been told by Government officials that the IRS reports are easy to fill out and again, we talked about this. Somebody with a 5th grade education can fill one of these things. I have already stated that I have a college education and I still can't figure this thing out.

On the back, even though in the instructions in this page in this booklet and I wrote this down, it says, "Many filers received rejected notices by making several common mistakes." So in this booklet, it says right there that you probably will figure out something you did wrong and we're going to reject you because of it.

The form further states that "it should take approximately 70 hours a year to record" on this page here which I brought with me and I've got copies if you guys would like that. It says—it gives you a time table of how much time each thing should happen. Approximately 55 hours and 58 minutes in recordkeeping; 8 hours and 11 minutes to learn the law; to prepare the form is 11 hours and 19 minutes, and copying, assembling the IRS form is 32 minutes. That's over 70 hours and again, if you look at that on a weekly basis, it's 1.3, 1½ hours a week to do the recordkeeping based on just this file here. I found it to be even more than that. It becomes a burdensome, type of operation for me.

The penalties, the penalties and again I think Al brought this up, the penalties in this 5500 form are extremely harsh. One of them is $1,000 a day if you don't file the form, the penalties can be assessed to $1,000 a day. The penalties can also be assessed according to the booklet, the penalties can be assessed by any one of three Government agencies, not just one. I don't have to deal with just one here. I've got to deal with the Department of Treasury, the Department of Labor and the Pension Benefit Guaranty Corporation. So, I assume based on that, if I screw up any of these forms, one of these guys can come in and assess me a large fine.

So one of them is up to $15,000, maximum, at $25 a day. Again, I don't feel that because I've tried to help my employees by establishing a pension benefit plan that—and it wasn't something that I had to do. The Government doesn't require me to do this. I was

doing this to help my employees, to try and establish something where they could save money to retire and hopefully help the Social Security system out a little bit and help my employees out and in a way, I feel like I'm being put under major scrutiny. I'm being put into a situation where one mess up can create a situation that could cost me not only my company. If somebody wants to assess the penalties as stated in this form, my company could be out of business and five people could be out of jobs.

So basically, I guess, that's where I'm coming from and that's it.

[Mr. Wright's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Dan. I will say that this is not the first time I have heard this story about the difficulties of setting up a pension plan in a small business and I think this is something we're going to have to have further hearings on in the Small Business Committee. This is not our jurisdiction, but I really think that we need to focus on this in the Small Business Committee in order to maybe raise the level of anxiety in Congress about what's going on out there.

Our next witness is Ben Griffith. He's the general manager of Central Cooperatives, Inc., Pleasant Hill, Missouri.

TESTIMONY OF BEN GRIFFITH, CENTRAL COOPERATIVES, INC., PLEASANT HILL, MISSOURI

Mr. GRIFFITH. Thank you very much, Chairwoman Meyers. I appreciate the opportunity to come before you and to testify. Representative McCarthy, thank you for being part of this process also.

I am Ben Griffith. I am general manager of Central Cooperatives at Pleasant Hill, Missouri. Central Cooperatives is a co-op that is owned by 1,600 farm families in west central Missouri. We supply agricultural inputs to our farmer-owners for both their crop and livestock production. We also market their farmers' grain. Our sales is about $20 million per year and we have 55 employees within our organization. I have been the general manager there for about 12 years.

I also have the privilege of serving on the board of directors of Farmland Industries, the Nation's largest farm supply and food marketing cooperative. Farmland is headquartered here in Kansas City, Missouri and is owned by over 500,000 farmers and ranchers through 1,400 local cooperatives in 22 States. Like Central Co-op in Pleasant Hill, these other coops have and continue to have extreme burdensome paperwork and regulations.

As a farmer-owned agricultural business, Central Co-op is engaged in every facet of a small business operation. This includes the handling, distribution, marketing, and processing of agricultural products. As a cooperative, however, the profits of our business is our return to our farmer members.

Agricultural is our Nation's single largest industry and is responsible for about 16 percent of the domestic gross product and has nearly 1 out of 6 jobs within the United States related to agriculture. The impact on us is very significant. Whenever you get involved in any type of food-related issues which obviously that is the main purpose of agricultural to provide food and fiber, why we really get involved with a tremendous amount of regulation.

This translates into lower earnings and then also reduced farm incomes for our farmer-members. We are committed to trying to insure our employees a safe working environment and we're also committed to making sure the consumers are provided with a safe and abundant food supply. That is our mission. We exist for our family farmers and all of the things that we do in our business go for the benefit of the farm family.

We are devoted stewards of the land, of the water and the air. We live in the communities and we also eat the same food that is provided within the urban areas. However, it seems like that in the last several years, reason and sound science has been lacking in many of the regulations that have been implemented by both the Federal and State Government.

The current regulatory environment is characterized by too much paperwork, really not enough flexibility and in overlapping requirements and seeming unjustifying reasons in terms of the cost and the benefit that are appropriate with these regulations. For an example, to cope with the regulations, we at Central Co-op, we've hired a full-time safety and compliance person. This person's job is to insure that we are in compliance with current laws and regulations and fill out Government forms. The cost of this compliance person will probably be in the neighborhood of about $55,000 per year and the reason why he hired this individual is not because of the spirit of the law. We feel like we can comply with the spirit of the law. We want the clean water, we want the clean air, we want the safe food, but what happens is that the letter of the law is what really—we are scared of. We are scared of the $1,000 a day fines that come along with it. We are scared of the criminal implications of not complying with the letter of the law, even though we are sincerely trying to comply with the spirit of the law. The MSDS sheets that Chuck brought along, our book is approximately 1,500 pages in length and that is the type of thing that we have to deal with in a fairly small business. Fifty-five employees is not a very large business.

Some regulations—examples of overregulations that are experienced by our cooperative as well as other cooperatives within the farm land system is for instance, the Federal Clean Act. Under this act, EPA defined grain elevators as a major source of emissions. It is our belief that grain elevators operate only on a seasonal basis, generally during the fall harvest and that the regulations was set up for people who are designing to operate in a 365 day, 24-hour a day type environment. Grain elevators don't operate that way. In an effort to try and get this matter resolved, one of our member cooperatives, the Farmers Cooperative Association at Lawrence, Kansas, has agreed to work with the EPA to test the actual emissions that are coming out of the grain elevator. We're hopeful that through this effort and also through some legislative relief, reason and science will be prioritized and will prevail.

I have here, in my hand, the instruction booklet for the Clean Air Act. What happens is that this instruction booklet is over 62 pages in length and this is the reason why I have to hire somebody to be able to do my regulatory business. I am not capable of complying with the letter of the law. I can comply with the spirit of the

law, but I can't comply with the letter of the law and that's what is very concerning.

Another example is that there is a report called the Pesticide-Producing Report which is required by the EPA for pesticide-producing establishments. It is understandable for manufacturers of crop production ingredients under the current EPA regulations, to have to comply with this type of a report. In our situation, what happens is that we buy a product in bulk. We bring it in tankard loads and then we put it into smaller containers. We don't change the composition of it. We just take it out of this container and we put it in this container and we have to file a report of a fairly lengthy nature, probably in the neighborhood of about 25 pages is what this report would entail for our particular operation. Again, we're not changing anything, we're not producing anything other than taking out one container and putting it into another.

In emergency planning, every year under the Federal Emergency Planning Act and the Community Right-to-Know Act, a good law. I think it is reasonable that people in their community understand what is in their community. But what happens is that the paperwork that is fairly lengthy in nature goes to the State, goes to the county emergency action planning commissions and also goes to the local fire department. But the scope of what is in that particular report, I find, to be of very little benefit to the people who are supposed to be regulating us. So, we take a pro-active stance and we ask our fire department to come in, to our operation, on a yearly basis and to go through and we show them what we have, where we have it, what building is involved. For that reason, we feel like that is a far more effective way of getting the information to the community as compared to the form that is out there.

These are just a few of the regulatory burdens that we experience. We are concerned about the cost of compliance. We feel like it's time to bring in some type of a cost benefit ratio into the regulatory process and we ask you to help to formulate some type of partnership to where the people, like ourselves, that are wanting to comply with the spirit of the law is capable of being part of the process, so that the forms and the laws that come out are ones that we can comply with on a reasonably easy basis and that we don't have to spend a significant amount of money just to hire somebody to fill out our forms.

Thank you very much. I appreciate it.

[Mr. Griffith's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you, Mr. Griffith. You've stated the concern very well. I have heard it many times.

Our next witness is Mr. Greg Shuey and he is with Tensortech Corporation, Overland Park, Kansas.

TESTIMONY OF GREG SHUEY, TENSORTECH CORPORATION, OVERLAND PARK, KANSAS

Mr. SHUEY. Thank you very much. I appreciate the opportunity to come here and give a few comments to Congress. It's a wonderful opportunity for small businesses.

If I may give a little bit of a background so you know where I'm coming from on some of these issues. Tensortech is a brand-new company whose purpose is to take brand-new technologies from

Federal laboratories and develop them into strategic alliances with small companies. So, we team up with people and take product to market in a much faster fashion than typically happens.

My background is 26 years of Government service, part of which was in the flying business and part in engineering. I served as a director of NASA for the space shuttle program for a couple of years and as a negotiator for U.S. Forces, Korea. I opened up four businesses, three of which are still in operation. I lived 10 years in Korea, five of which I was operating a company whose purpose was to help American businesses get started and do business. We have 20 Fortune 500 companies as clients; we helped Farmland set up their first distributor, actually their second distributor over there because the first one didn't work out. So, I appreciate both the international and domestic perspective of business, the Government side and the private sector. That's where I'm coming from on some of these issues.

Getting back to an establishment of a small business as I did with Tensortech, it was a real eye opener to come back after 10 years and see what it took to get a small business started and I'd like to address a couple of examples of what the problems were that we encountered, not because they are necessarily important in themselves, but the totality of all the problems a small business encounters is what's really the issue.

In setting up the company, I had to form a checklist of information. This is about 50 items long and it's the steps that you need to go through to get a small business established, and forget about all the business issues of marketing and advertising a product and how you get things manufactured. These are just the specific problems and regulatory issues that you have to deal with. For instance, there are nine Federal forms and six State forms that have to be produced, filled as frequently as every month. There are six corporate ID numbers that have to be obtained. There are numerous sources of regulations such as OSHA, IRS, EPA, Department of Revenue, Human Resources and on and on that you have to address to make sure that you're in compliance.

Now frankly, I have three MBA's, not to one up anybody, excuse me, three degrees, including an MBA and I'm flabbergasted by this sort of thing; and I don't know how somebody who has a high school degree or fine arts degree is going to make it.

In the capitalization issue, which is a major problem with the business, our first product was a high-tech electronic circuit that we formed in a joint venture with a small company. We needed a third of a million dollars to get this thing developed. We had no product, no prototype. All we had was a proposal and an electronic design. We went around to banks, VC, venture capitalist, commercial lenders. Nobody was willing to talk to us. We were too new. So, we applied for a KTEC grant, Kansas Technology Enterprise Corporation, and were successful in winning $20,000. We were the first company to take that money and run to the SBA through an SBIC lender and, thank God for both of those, we were able to capitalize that, leverage it into the first SBA loan of this type.

That's fine and I totally support both SBA and SBIC's. The problem that we encountered was that it took 221 pages, these particu-

lar documents, to get that thing approved. I don't think that's necessary.

Chairwoman MEYERS. Was that both KTEC and SBIC or just SBIC?

Mr. SHUEY. Just KTEC, essentially. This is the SBIC, SBA requirements. Frankly, a lot of that stems from the Government regulations. I'll discuss a few of those things in a second. We had to pledge all of my company's stock. I had to assume full responsibility for the loan. We had a secure purchase agreement from our joint venture partner for 2 years, so we had eliminated most of the risk in this issue.

The SBA came back with a notice to borrowers which required me to comply with parts 112, 113, and 117 of their rules and regulations on nondiscrimination. Well, this is just another little example of why business is overburdened by regulations. This required me to establish personnel records that would satisfy the SBA. If there was a discrimination suit, I'd have to follow six actions that the SBA would dictate. They had a 25-item checklist for equal opportunity.

My question is: Is my company in business to develop technologies or equal opportunities for my employees?

Chairwoman MEYERS. How many employees?

Mr. SHUEY. We have four.

Chairwoman MEYERS. Four?

Mr. SHUEY. Two of them are Ph.D.s. I was also required to buy property insurance on $32,000 in equipment that I didn't yet owned and most of it won't be purchased for another 6 months.

I had to get key man life insurance on myself to make sure if I died, the company would survive and the loan would be paid back. Well, that's fine. There's a lot of business issues in this, but I was mandated a $1,000 a year requirement to get an SBA loan that I was paying standard industrial rates for.

We had just recently submitted another document about the same size for an SBIR, Small Business Innovation Research Program. We have a joint venture partner in California who is a U.S. leader in technology and if we're successful, we have a technology that will hopefully resolve back injuries which is a multibillion dollar problem in health care and in the workman's compensation area.

The SBIR required me to, as a principal investigator, as the decisionmaker, to spend 50 percent of my time on the project. Well, you take $100,000, which is the value of the SBIR, and you divide it up among two companies, seven researchers and all of them are high paid, I mean those guys on the west coast, they're doctors and they're like lawyers, right?

Now I took a big pay cut to spend 50 percent of time, 51 percent of time on this project. It also requires me to exclusively allocate my resources and facilities used for this project only to that project. I don't have that many facilities. So, I can't shut down business, but I have to comply with the regulation and there are some other issues that were pertinent to that thing.

My bottom line here is that a regulator or a legislator tends to look at his problem and comes up with a solution to it. Yet business has to take the totality of all regulations and laws and deal

with them; the end result is that you spend 30, 40, 50 percent of your time trying to make sure that you comply with these things because of the possible issues that you are faced with if you don't.

Also, regulators and legislators don't look at the downstream problems because it's not possible to look at all the implications. So, again, the bottom line is that we're drowning in laws and regulations and to me, I think, that the entire legal structure of the United States needs to be looked at.

I've got a couple of suggestions—these may appear to be draconian, but if you look at business, business has to take a strategic look at its universe and then sit back and take a technical viewpoint.

I think it's time for the U.S. Government to do the same sort of thing. We have reengineered ourselves to be competitive. I think it's time for Congress to reengineer itself. We need to look at national goals. We don't have a goal beyond the Contract With America which is a 3 or 4 year window.

I think we need to look at where we're going to be in the 21st Century and not at the beginning of it, but at the end of it, and then develop the objectives as to how we get there.

Congress needs to look at reviewing and purging and perhaps rewriting the entire set of U.S. codes and that's a 10 year project. But we put band-aid upon band-aid, we change it every year. We're discussing it right now and the question is what is really the strategic purpose of this country and the laws that make it happen.

I'd like to see Congress evaluate itself and decide whether it should be the protector and the provider of the people or just the implementer of opportunities and I think that's a major issue that it hasn't addressed yet.

I'd also like to see it take a different perspective lawmaking. When it creates a law, there's a negative trickle down effect in one way or another. Anything that requires compliance, lowers the cost, excuse me, it increases cost of business, lowers productivity and reduces the competitiveness of that business. Every dollar you take away from us, lowers the efficiency of the economic engine.

I'd like to see Congress try to set up a small company in each of their individual States.

Chairwoman MEYERS. Please, Mr. Shuey.

Mr. SHUEY. This is an exercise. Generals go through a war gaming exercise and they try to decide what the best scenarios are. But it would be very instructive to do something like this and to evaluate how difficult it is to set up and operate a business.

With my red light, I think in summary that the problem is not just overregulation, but the strategic viewpoint that we have not taken in this country and that we really need to do in this new millennium.

[Mr. Shuey's statement may be found in the appendix.]

Chairwoman MEYERS. Well, thank you very much, Mr. Shuey. About your suggestion about Congress setting up a small business, I might say that I can't think of a single soul that would loan us any money.

I might just mention very quickly for the benefit of those who are in attendance who may not know this, I think all of our witnesses do, that in the contract there were about five regulatory changes.

One was suggested, I think by Mr. Griffith, but we did enact a moratorium on any new rules and regulations, beginning last November and going through next December and there is an extra 6 month period for small business.

We said secondarily that we made some exemptions which listening to this panel I think maybe we shouldn't have done, but we made some exemptions for IRS, for banking rules and regulations and for duck hunting, of course, because without some new rules there couldn't have been any duck hunting and first things first here.

Secondarily, we said that any new rule or regulation that's promulgated, there has to be a risk assessment and cost benefit analysis and that it does not look back, it's prospective only. It only looks forward. We said that if we limit the use of your land in any way, we have to pay for it. In other words, if we say that a certain number of acres of your farm that you can't farm because its' wetland, then if we affect the value of that portion more than 20 percent, we have to make some financial adjustment with you. We passed the Regulex Act, which as I said, at the beginning of this hearing, has been on the books for 20 years, 15 years, but there has never been any enforcement mechanism. We put an enforcement mechanism in so that now agencies will have to review their rules for their special impact on small businesses.

Finally, we said that if there is paperwork connected with the rule and regulation, there has to be an OMB number in the upper righthand corner and that means that OIRA, the Office of Information and Regulatory Affairs, in the Office of Management and Budget has to have reviewed that paperwork to see that it's not duplicative and that it has been done in the simplest way possible and that it's truly necessary in the first place.

Now hopefully, that will reduce the burden of paperwork in this country by 10 percent annually. We are hopeful that it will and I frankly, for one, think that just as we move toward a balanced budget, by reducing the size and scope of the Federal Government, maybe we will reduce the burdens.

One further comment and then I'm going to defer to Congresswoman McCarthy for the first question, but I want to tell you that we are also going to start something after we return which is this coming Sunday. and that is something called Corrections Day in which we look for laws that are on the books that no longer make sense and some of them may never have made sense, I don't know. But at least we are going to do a special period of time each week to repeal those laws that are on the books that no longer make sense and maybe laws that are just onerous, burdensome and are not really productive. So, if you have suggestions, I would like to hear about them.

Ms. McCarthy?

Ms. McCarthy. Thank you, Madam Chairman, and I just want to say how pleased I am by this panel's presentation. It tore at my heartstrings. I don't know if you could watch my facial expressions, but I particularly am grateful that you're going to pursue the pension benefit plan review and Mr. Wright, I pledge to you that I will pursue vigorously with the IRS and answer to the question of what they do with the forms that they make you fill out. It struck me

that I don't know that anyone probably knows what happens to those forms.

Mr. WRIGHT. I've asked the same question.

Ms. MCCARTHY. I will get an answer. I promise you that.

Mr. Griffith, as you know, I come to this new role in the Federal Government from a background in State government as does Chairwoman Meyers and so when you mention the Community Right to Know Act, I am very familiar with it from the State level and if the Chairwoman, I know knows that this is another good idea from the Congress, but became a rather large unfunded mandate for the States and I fully concur with the frustration on those forms because all the while we were trying to implement it to make it practical and useful at the State level, we didn't have the funds to do anything with those forms. People were required to fill them out, but we didn't have the way to get them anywhere, the technology, the cost of it and so I assure you that in my responsibilities in the Congress I'm going to pursue looking back at that in my work on the Science and Technology Committee to see if we can't continue as the Chairwoman pointed out to back away from some of those things that seem like a good idea, but they're not practical and are very expensive to carry out.

Also, Mr. Shuey, I want to assure you that I very much appreciated your philosophical questions to us today. But I must tell you that I do feel like a small businesswoman and I know the Chairwoman understands this because we both came out of State government where our staffs were very limited, part-time secretary, sharing a research analyst, into a role where we now have small businesses in our district and in Washington and maybe even satellite. I do out in eastern part of my district and I ran into now—are one, I'm in the Federal Government now. I ran into a situation that I don't particularly find amusing but like pursuing with the IRS, I intend to pursue to solution. I am sharing space in the downtown Federal Building that my predecessors all used, but by whatever means we have no parking. The judges have it all and we're forced now 3 months in to still be looking for parking spaces for staff and I have several female members of my staff and I want them to be within a block of the building so if they leave in the dark, I'm not worried about their safety.

I keep pressing GSA about this and I find out that we can't seem to find parking within one block of the building. There is plenty of parking within one block, but no one wants to deal with the forms they have to complete to the GSA in order to provide parking for my staff. So, I am going to have a conversation with Region 7 GSA. I want to see these forms. I want to know what they are for, where they go. I'll offer to fill them out if I can. I have three degrees. One is an M.B.A. I will report back to you on this.

Mr. SHUEY. Thank you very much.

Ms. MCCARTHY. Madam Chairman, I know you've yielded to me for questioning. I have more in the way of comments and accolades for this panel and all the panels that you've brought before us today and I just want to share them. But we work as a team in the Congress and this woman is true to her word. We will be pursuing these issues and hopefully to your satisfaction.

Chairwoman MEYERS. And especially I would urge you to stay in touch with the Senate because we want to make sure that as much of this regulatory and paperwork reform gets through the Senate as possible and then I'm sure it will take some further pursuing and oversight by the Small Business Committee to make sure that it is really having an impact.

I am particularly interested in the comments that you have made, at least two of you have made about your pension plans because if we are actually discouraging people from doing pension plans that's a serious problem.

I appreciate your being here very much. I will say the same thing to you that I've said to previous panels. We undoubtedly, as we review your testimony will think of questions that we would like to ask and if we may submit them in writing to you, we would appreciate a response.

Thank you very much for being here.

PANEL SIX OPEN FORUM

Our next panel's first witness is William Miller, Building Erection Services of Olathe, Kansas.

Mr. Miller?

TESTIMONY OF WILLIAM MILLER, BUILDING ERECTION SERVICES, OLATHE, KANSAS

Mr. MILLER. Thank you. Good afternoon. My name is Bill Miller, president of Building Erection Services Company, located in Olathe, Kansas.

We're a special trade contractor. Our work is in erection of structural steel buildings, preengineered metal buildings, precast concrete structures and we have a crane rental service.

Today, I am representing the American Subcontractors Association, a national association comprised of over 6,000 specialty trade contractors in the construction industry and serving the industry in 75 chapters nationwide.

I do thank you for inviting me to speak to the committee today.

While we hear so much about small business being the engine of our economy, there are many road blocks that have long stalled the growth of entrepreneurship. These must be removed.

One of those is the overwhelming and bewildering regulations that are literally destroying the entrepreneurial spirit of the small business men and women in America.

Madam Chairman, I would like to commend you for taking this problem to heart and championing the Paperwork Reduction Act of 1995. This legislation delivers on many of the issues we have long fought for, including reauthorization of the Office of Information and Regulatory Affairs, extension of the act to cover third-party paperwork, such as OSHA's Hazard Communication Standard, and establishment of a Governmentwide paperwork reduction goal.

We look forward to the President's signature on this important legislation. We thank you for being a true advocate for small business.

Another bill that will give small businesses a powerful tool to combat onerous and unnecessary regulatory paperwork is passage of an amended Regulatory Flexibility Act, as you mentioned. Con-

gress recognized that Federal requirements on small businesses needed to be reduced when it enacted the Regulatory Flexibility Act in 1980. This law established procedures for reducing the regulatory burden on small businesses. But since its enactment, the Federal agencies have failed to fully implement the tenets of the Act. The lack of judicial review provisions have left small business without a hammer.

A perfect example of agencies' abuse of their responsibilities under the Regulatory Flexibility Act are the proposed rules implementing the Federal Acquisition Streamlining Act of 1994.

Chairwoman MEYERS. Mr. Miller, I wonder if I could ask you to get just a little closer to your microphone. I think we can hear you fine, but they may have trouble in the back there.

Mr. MILLER. Is that better?

Chairwoman MEYERS. That's fine.

Mr. MILLER. These rules, issued by the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration under the oversight of the Office of Federal Procedure Policy, generally have ignored the applicability of the Regulatory Flexibility Act. When the agencies have acknowledged the Act, they have at best given short shrift to the law's analytical requirements over the objectives of the small business community and the Small Business Administration's Chief Counsel on Advocacy.

We implore this committee to use its oversight power to help small businesses challenge unwilling Federal agencies in cases such as this. ASA hopes the amended Regulatory Flexibility Act crosses the President's desk soon.

I would like to give you a real life example of how regulations are destroying the desire of small business men and women to grow, to expand, and to strive for the rewards that hard work and success should bring.

My company submits a ream of paperwork to the Department of Labor on a regular basis. We are a company that has employment contracts with local labor organizations to provide workers with the necessary skills. These employees are dispatched without regard to race, gender, creed or color. The labor organizations actively solicit applicants in these categories and we, as a company, rely on the labor organizations to supply our work force.

However, after an audit by the Office of Federal Contract Compliance Program, we received 74 citations for failing to complete paperwork. We were cited because we didn't complete the necessary paperwork for soliciting female and minority workers and screening for illegal immigrants. But the labor organizations we contract with provides this service.

Now, we send our paperwork to the Department of Labor. We are in compliance and yet, as a result, we don't have one more female or minority on the job. As far as increasing the percentage, it hasn't done a thing. We will provide committee with a copy. I have that right here. This is the stuff that we send in. Part of this is the consent decree and the rest of it is the stuff we submit monthly.

Are these regulations achieving their objectives? I'd say in this case, certainly not. It hasn't done a thing.

In my experience, the Department of Labor leads the way in oppressive and repressive regulations through the Occupational Safety and Health Administration. OSHA rules and regulations are overwhelming in volume.

In the 25 years since the passage of the Occupational Safety and Health Act, over 3,000 pages of regulations, tables, indexes and basic references have been issued to govern the safety and health of American workers.

Over 1 million words are included in the Safety and Health Code of Federal Regulations. Despite all this verbiage, the accident rate is about as high today as it was in 1970.

One of the most frequently cited OSHA violation is incomplete Hazard Communication paperwork, such as the written program or missing Materials Safety Data Sheets. Paperwork does not make safe work.

No one that I know ever has asked to see a Material Safety Data Sheet other than an OSHA inspector.

Some of the regulations are nonspecific. Many times citations are issued under the general duty clause that gives the inspector the right to cite a violation based upon his or her own judgment, without specific rules that the employer could anticipate to be in compliance with.

No one I know is against work place safety. No one.

As business men and women, we know and understand the importance of keeping our workers safe and healthy. An unsafe work place is bad for the morale of the people on the job, it slows down your work and very much affects your bottom line.

ASA is committed to improving safety in the construction industry and believes the most effective method of achieving the goal of occupational safety and health should be performance-based prevention and education, not enforcement-driven tactics.

ASA recommends that OSHA's resources are reallocated to education and assistance, rather than enforcement. OSHA should be directed to establish a small business outreach program and allow OSHA training to be conducted by an OSHA-approved third party, such as trade associations. As a result, the education outreach would be broader and deeper into the small business community.

Here in Kansas City, contractors are pitching in to fund extensive safety training for apprentices and journeymen through the local trade union. The employers that are participating in progressive programs such as this should be supported by OSHA and not harassed.

If OSHA truly intends to make the workplace safer, we need a mandate for employee accountability. Failure to follow safety rules and utilize safety equipment that is provided to them by the employer, it not only endangers the employee, but those people working around him. Employees should be held accountable too.

In addition to the regulatory burdens facing small business, subcontractors who participate in Federal procurements are up against a plethora of challenges. In our written testimony, we provide the committee with several recommendations for improving the Federal procurement process.

Some of our suggestions include: Amend the Miller Act to improve payment rights for subcontractors and suppliers through pay-

ment bonds; require bid listing for Federal construction contracts to assure that "bid shopping" is not used to cause the quality of work to be compromised on Federal projects; and to amend the Prompt Payment Act to provide for timely payment to contractors and subcontractors who participate in Federal grant programs such as highway and housing projects.

Madam Chairman, ASA looks forward to working with you and the committee to explore the issues facing small business.

We believe that significant progress can be made with the legislation of regulatory changes we have suggested today.

That concludes my statement. I'd be more than happy to answer any questions that I can.

[Mr. Miller's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much for being with us, Mr. Miller. You've made some very good suggestions and I do have a question and we'll get back to you and I would like to hear next from our next witness, Mr. Ernest Fleischer of Blackwell Sanders.

TESTIMONY OF ERNEST FLEISCHER, BLACKWELL, LAW FIRM SANDERS

Mr. FLEISCHER. I thank you very kindly for inviting me today to be a panelist. I want to encourage the committee to adopt a Truth in Government Act. We have heard today how complicated it is for a citizen to comply with the Government rules and regulations. Every small business person has, as a compulsory counterparts, the Government. For each other counterpart, the small business person can challenge determinations made by that counterpart in court, can prove that the counterpart has lied, has cheated, has defrauded the small business person, has reached a conclusion based upon falsehood or irrelevancy. With respect to the Government, the courts have held that that is not possible if a Government person errs, if a Government person reaches a conclusion based upon an irrelevant fact, untruth. There is no way that the citizen can overturn that.

I'm suggesting that the citizen have the right to file an action in Federal District Court, obtain a jury trial. If the citizen proves in court and he would have the burden of proof, if the citizen proves in court that the Government's action was based upon an untrue allegation or an irrelevant fact, the Government action would be declared void and overturned.

The only time when the Government would have the burden of proof is if the citizen would be denied access to information by claim of executive privilege or if the Government action was the result of an opinion of a Government officer, not based upon a fact. So, therefore, the Government would then have the burden to prove that the decision made, the action taken was right and proper.

We have had three instances in our area where the courts have held that the truth was irrelevant. The first concerns Franklin Savings Association, a savings association of which I was board chairman. We filed an action in Federal court to overturn Franklin's seizure. Judge Saffold, the Federal District Court judge, allowed us to present evidence and we proved in court that the action taken was based upon untruths, was based upon irrelevant allegations. The laws construed by the Court of Appeals, the Tenth Circuit, said

that Judge Saffold should not have listened to any of the evidence, that under the laws enacted by Congress, even though Congress provided that we had a right to seek a determination on the merits, the court held what Congress meant was we had a right to seek a determination based upon what was before the Government regulator at the time, but not look behind the truth or relevancy of that information.

More recently, the Eighth Circuit held that in the case of a wiretap which the FBI obtained, a Kansas business man, the fact that the Kansas business man proved to the magistrate and to the Federal District Court, that that wiretap was obtained based upon falsehoods and irrelevant allegations. The wiretap still was valid because the allegation which was made was a true allegation, not that the allegation itself was true, but in fact, there was such an allegation, thus allowing the wiretap to stand.

A third case, even more recently, a Federal District Court Judge concluded that the decision of a banking regulator, that a man was unfit to serve as a banker could not be reviewed by the court, that is the man would not have an opportunity to present evidence to the court at all with respect to that issue because, as the Judge construed the law, this was a matter wholly within the opinion, the discretion of the banking regulator and for the court to even look at that would require the court to substitute its judgment for that of the regulator.

The result of that course of conduct, that is that the citizen has no right to challenge Government action results in the citizen becoming very cynical, opposing those things which Government can and must do to assure that we have an ordered society.

I am strongly in favor of allowing Government to take what action it deems appropriate. But once that action is taken, nobody is at risk. If the citizen then wants to challenge it, allow the citizen to do so. If the action is declared void, the Government suffers the consequences of having taken a void action.

Thank you so much for allowing me to make this presentation.

[Mr. Fleischer's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Mr. Fleischer. You bring to us a different perspective and I have some questions for you also.

Our next witness is Judy Burngen.

Ms. BURNGEN. Burngen.

Chairwoman MEYERS. Burngen. She is the former Rockhurst College SBDC Director.

TESTIMONY OF JUDY BURNGEN, FORMER ROCKHURST COLLEGE SMALL BUSINESS DEVELOPMENT CENTER DIRECTOR

Ms. BURNGEN. Yes, thank you, Congresswomen Meyers and McCarthy for conducting this hearing. It's a vital part of the information gathering process and ultimately the decision making process.

I was director for 10 years at the Rockhurst College Small Business Development Center and 1 year prior to that I helped start the center. My approach and testimony today is as a private citizen. I have no particular vested interest other than when I have the opportunity to sit back and look at what we accomplished for

small business. I still am a very strong believer in the Small Business Development Center Program.

I am just going to highlight a few things. I think that you have a formidable challenge in front of you and I encourage your committee to thoroughly review the benefits of the SBDC. I hope that the new congressional committee membership is seeking to understand the Small Business Development Center Program and the Small Business Administration before they make decisions and I know you will encourage them to do that.

I hope that you will retain and strengthen the Small Business Development Center. You've heard this morning about the business development programs.

Let me just begin with a few things that happened at our SBDC center. Two dominant requests were presented to us by individual business owners when they contact a Small Business Development Center. First they had the need for capital and they had the need to be profitable. If you translate that business owners are saying help us obtain financing and help us solve our small business problems, including regulatory issues, and teach us how to manage and market our business.

These needs are the service strength of the nationwide Small Business Development Center Program and especially it was the strength, I'm pleased to say, of the center I directed. American Balloon, who testified this morning, was one of our clients.

The source of financing is the strength of the Small Business Administration's guaranteed loan program. Now I want to highlight the strengths of the nationwide SBDC Program.

First of all, the SBDC is a delivery system that's in place nationwide with over 900 locations. The SBDC provides the Government an excellent return on investment. Linda Gill Taylor, this afternoon, mentioned about doing a cost-effective study on these programs we have.

The Missouri Small Business Development Center recently did a survey on impact and found that small businesses that were SBDC clients generated \$3.62 in tax revenue for every \$1 of the total SBDC budget was generated. If you take out the matched dollars, that's the dollars provided by the local centers or private sources, then \$7.25 of taxes was generated for every \$1 of Federal support. Now as a small business delivery system, we try to work with helping our small businesses have a good return on investment. I these results are an excellent return on investment for the Federal dollar.

The Federal money is well leveraged. Over 50 percent of the SBDC's nationwide budget is supplied by State and local matching funds. The SBDC has qualified expert personnel to meet the requests made by the business owners. This morning you heard American Balloon's praise the consulting advise and assistance they receive from their SBDC adviser. The consultants throughout this system are like the one at Rockhurst College, experts in functional areas of running a business. They own their own small business and they like working with small businesses. They understand small businesses and how to help them.

The SBDC is affordable and user-friendly. Presently there are no fees for services. We are here to obviously help small businesses

succeed without crating prohibitive costs. The SBCD understands the dilemmas of small business.

Let's get to a few recommendations. My recommendations are based on a business perspective. I have assessed the strengths and weaknesses and what would be perhaps an appropriate strategy that you may be considering over the years.

First of all, I've stated the strengths and therefore ask that you retain the Small Business Development Center at the same budget level. Of course, it would be nice to have more. My specific suggestion is that you look at strengthening and creating a small business delivery system which focuses on the strengths of the SBDC and the SBA. the SBA's strength is financing; the guaranty programs and the 504 Program and the microloan program which is administered by another entity, but it's still an SBA Program. The Small Business Development Center's—which is the second largest program within the SBA—strengths and focus is the expert management assistance through an already established network of locations.

Next I recommend that the other business development services of the SBA be collapsed into the Small Business Development Center Program. The SCORE and SBI Programs, the Women's Business Program and the Minority Program. When I say collapsed, I mean taking the objectives of these programs and incorporating them within the SBDC's nationwide system. I recommend we create a clearinghouse for information, business assistance programs, and regulation assistance within the nationwide SBDC system which is then disseminated to small businesses.

Not only do small businesses have difficult regulations, so does the Small Business Development Center Program. One regulation that creates problems is an OMB regulation which states that the matched dollars for an SBDC must be nonprogram income dollars. That means that if I conduct a seminar and make money on it, I cannot use that money as a match against my Federal dollar. I think that ought to be looked at.

Eliminate the no charge for SBDC service guideline, and authorize the SBDC to seek payment contributions from clients for services. The SBDA's would seek payment contributions after a set amount of basic service hours are provided free. This would be established by guidelines.

Many small businesses will say they could not have made it without the SBDC and I know that for a fact. I went out and fund raised 1 year because I was in a situation where our center needed money. I asked our clients to contribute and they did. If they can contribute, not as a fee, but as a contribution, they may get a tax benefit for that, and we can circumvent that regulation, and use the funds as match. A little sneaky, but I think that that's positive. So I recommend we encourage the establishment of a private fund raising function within the SBDC which would seek contributions from clients and corporations and grant funding from foundations. I again was recently faced, before I left the center last August, with finding money—and I was successful. It was just a minute start, but I got money from a bank's trust department that manages various foundation trusts.

Redirect SBDC reporting requirements to focus on economic impact instead of number crunching and number reporting.

Authorize the lead SBDC office to conduct their own audit. Auditing and all that is costly to the Government. At Rockhurst College, we had to have an annual audit. Why not, with a couple of extra dollars have the college auditors check out how we were handling our dollars within the SBDC and present that to the Government as the audit. The Federal Government would authorize the additional cost.

Restructure the SBA as the administrator of its best product, guarantee loan program.

Last, retain the oversight of the SBDC within the national level. That means do not have the contracts totally and completely managed and dollars distributed by district SBA offices. Such decentralization will cause a tremendous unevenness and inconsistency through the SBDC Program.

Thank you.

[Ms. Burngen's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Judy. We appreciate your staying here throughout the day.

Our next witness is Patti Klinko, chief financial officer of the center for Business Innovation, Kansas City, Missouri.

TESTIMONY OF PATTY KLINKO, CENTER FOR BUSINESS INNOVATION, KANSAS CITY, MISSOURI

Ms. KLINKO. Thank you, Chairwoman Meyers and Congresswoman McCarthy. I appreciate the opportunity to appear before you today to present testimony related to the SBA Microloan and SSBIC Program.

The center for Business Innovation is an intermediary for the SBA's Microloan Program. CBI became a microloan intermediary for the entire State of Missouri in 1993 with the first loan made in July of that year.

In January 1994, CBI became a microloan intermediary for the counties of Johnson, Wyandette, Leavenworth and Douglas in the State of Kansas.

The Microloan Program fills an important capital gap for small businesses that cannot receive traditional funding from banks either due to the size of the loan that they're seeking or due to their financial position. The Microloan Program can provide loans from as low as $500, up to a maximum of $25,000. Instead of analyzing a loan using traditional bank ratios, CBI looks at a business's viability in the community and looks at its ability to repay the loan. Therefore, through this program, many small businesses have been created or sustained that would otherwise not have been given a chance to survive.

Since July of 1993, CBI has loaned money to 63 small businesses in Kansas and Missouri. These businesses employ a combined total of over 200 people. Those are people who might not otherwise have jobs, if their employer did not have an opportunity to get a microloan.

In total, CBI has loaned out over $1 million to small businesses in Kansas and Missouri through this Microloan Program. An important component of the Microloan Program that contributes to its

success is the technical assistance that accompanies each loan. The SBA provides microloan intermediaries with technical assistance grants which then is used to assist the microloan borrowers in being successful.

Many small business owners lack not only management skills, but also the manpower that's required to fulfill all of the tasks that are necessary to grow their business. Through the microloan technical assistance grant, CBI is able to work with these borrowers on a one-on-one basis in the areas of management, marketing, human resources, finance and accounting.

CBI has assisted microloan borrowers in projects such as setting up an accounting system, hiring personnel, preparing cash flow projections, marketing, via a direct mail campaign and procuring sales contracts. Those are just some of the projects that we've done with microloan borrowers.

CBI has also worked recently with the Metropolitan Community Colleges in Kansas City to develop educational courses for microloan borrowers, covering such topics as cash management and marketing. The results of this component then of the Microloan Program is evident in the fact that CBI has experienced less than a 1 percent loss rate on the loans made to date, even though SBA requires that we maintain a 15 percent loan loss reserve to cover any portfolio losses. This means that these small businesses are not only surviving, they are making their loan payments and they're contributing to the overall economy through their tax revenues and job creation.

It's our understanding that Congress is currently review the success of the SBA Microloan Program and has considered eliminating the technical assistance grant portion of this program. CBI feels that this action would be detrimental to the success of the Microloan Program and in effect, would reduce the survival rate of the small businesses in Kansas and Missouri that really need this assistance.

In addition to being a microloan intermediary, CBI also has a $3 million seed capital fund for socially and economically disadvantaged small business owners in the Greater Kansas City Metropolitan Area which includes counties in both Kansas and Missouri.

This fund was made possible through a grant from the center for Entrepreneurial Leadership of the Ewing Marion Kauffman Foundation.

Applications to receive investments from the seed capital fund were first made available at an informational meeting that CBI held on Saturday, January 7, 1995. Although this meeting was not heavily advertised, over 1,000 people attended the meeting. Over the next 3 months, we have received almost 200 completed applications to this fund. This demonstrates the pent up demand for capital in this targeted segment of the community. A $3 million seed capital fund though cannot begin to satisfy this demand. Therefore, CBI, through its subsidiary, Capital for Entrepreneurs, Inc., applied for an SSBIC license from the SBA in order to leverage these funds. If the license is approved, then the fund will be increased to a $9 million level and it can go up to $12 million through other means in the SSBIC Program.

Recently, in an article that appeared in the Wall Street Journal, the SBA was faulted for failures in SSBIC's in the past. Those failures occurred though when the SBA was providing capital to SSBIC's in the form of debt. This made it extremely difficult for SSBIC's to fully invest in small businesses, wait the typical 5 to 7 years to harvest those investments and still be able to make debt service payments to the SBA.

Under the new regulations for SSBIC's, the capital provided by the SBA to SSBIC's can now be in the form on nonvoting preferred stock with a 15 year mandatory redemption and a 4 percent cumulative dividend which is payable no later than the redemption date. This allows the SSBIC the time it needs to harvest its investments and reap a healthy return on those investments before the repayment to the SBA is required. Thus, the SSBIC can grow its investment pool, can pay its operating expenses and meet all of its obligations to the SBA.

Currently there are no SSBIC's in this region of the country. As I previously indicated, there is a great demand in this area for seed capital for socially and economically disadvantaged small businesses. Therefore, CBI strongly believes that the SSBIC Program should continue to be funded.

Thank you.

[Ms. Klinko's statement may be found in the appendix.]

Chairwoman MEYERS. Thank you very much, Patti. We have one more witness and his name is John Halsey and he is chairman of IBT Reference Laboratory.

TESTIMONY OF JOHN HALSEY, IBT REFERENCE, LABORATORY, LENEXA, KANSAS

Mr. HALSEY. Thank you for giving me the opportunity to speak at the last minute. The business I operate is ProGene Biomedical. We operate two divisions, a reference lab and a diagnostic manufacturing division. It's a small business still. We started just 11 years ago. We're located in Lenexa, Kansas. We have 24 employees. We have good, high-paying jobs that we've been able to develop here in Kansas for our employees.

In addition to providing specialized referral testing services for other clinical labs throughout the United States. We manufacture diagnostic kits and reagents that are sold in Japan and Europe and throughout the United States.

My reason for asking to speak at your meeting is that I'd like to convince you that the medical device industry is an important part of our Nation's business and that it is being threatened significantly in the last 7 or 8 years by an overzealous Food and Drug Administration under the administration of Commissioner Kessler.

There are a few things I'd like to tell you about our industry, in general, and then I just have a few specific recommendations that I'd like to leave for you to consider.

The medical device industry is predominantly composed of small businesses. Seventy-two percent of these businesses employ 50 or fewer employees and there are over 7,000 device companies in the United States.

This industry is a major source of jobs in the United States, approximately 270,000 by this industry. It's a major American indus-

try producing over $40 billion in devices that are manufactured right here in the United States.

It's a major exporting industry. In 1994, the U.S. medical diagnostic industry had a trade surplus of $5 billion, so I think it's an important industry and one that we need to protect. My concern is that the actions of the Food and Drug Administration which are now being looked at by Senator Kassebaum's committee other committees, could threaten this industry. I hope that these committees will try to refocus this Agency in areas where they do a better job.

I have a few specific recommendations. The FDA regulates too many products that don't need to be regulated. A device approval for a tongue depressor can be just as complicated to deal with as a CAT scanner. Thus, there needs to be a restructuring or prioritizing of what devices should be appropriately regulated by FDA for the safety and health of our citizens.

The devices that we manufacture are in vitro diagnostic devices and these are devices that are used outside of the body. They're basically kits and reagents that are used by a very informed consumer, i.e., clinical pathologists and lab directors at medical and laboratory institutions. These individuals actually perform the function that the FDA purports to do and that is to regulate the quality of the testing that's done with these devices.

The second issue, the FDA takes too long to approve new in vitro diagnostic devices. This has been a common complaint and I know we've heard a lot about that, but the approval process for in vitro diagnostic devices is a long, involved paper shuffle and in general this process doesn't result in high quality devices anyway. The staff at the FDA tend to be people who are mainly trained in the bureaucratic process of applying for approvals rather than trained in the technical understanding and use of these devices. I could cite many examples of in vitro devices that were approved after a lengthy 2 and 3 year period that actually don't perform the way they were intended.

I think the Congress should resist attempts to impose user fees. I know last year this issue died and I hope it doesn't come up again. This is particularly important for small diagnostic companies and these are the companies that lead to most of the innovation in the field.

Finally, FDA's export certification program really needs to be changed. It's a very serious threat to American jobs. Here's an ad from a trade magazine, a diagnostic trade magazine: "Maybe the best State to be in isn't a State." It's an ad by British Columbia, Canada, trying to recruit biotech companies to move to Canada and they make a point, you won't see much red tape and there's no regulatory approval required for medical devices intended for export.

We have had problems with this export issue with a diagnostic reagent kit system that we developed to sell to Japan. It's gone through a 3-year regulatory approval in Japan, but we have not gotten approval here and the FDA is saying we can't export that device.

The problem that a business like ours has with inflexible export controls is that you're forced to either sell your company, turn it over to a big company that can manage the regulatory burden, or sell your technology and let the jobs move with the technology.

I know of many companies, many small diagnostic companies, not just in Kansas, but elsewhere, where the entrepreneur is moving all of their diagnostic manufacturing facilities overseas and I emphasize that it is not for a cheap labor source. It's simply to escape the burden of the Food and Drug Administration. Thank you very much.

[Mr. Halsey's statement may be found in the appendix.]

Chairwoman MEYERS. All right, and I thank you very much, Mr. Halsey.

Let me ask a question or two while Congresswoman McCarthy is reading a note here about a possible change.

Mr. Miller, you spent a couple of pages in your testimony making some very good observations about procurement. In 1994, we passed what we called the Federal Acquisitions Streamlining Act and we hoped that it did, of course. It increased the threshold for contracts, Government contracts reserved for competition among small business from 25,000 to 100,000 and it placed the bids on a computer network called FACNET providing better access to small business who want to bid on Government contracts and it allowed Federal agencies to buy commercial items rather than defining a commonly used item and developing complicated specifications for that item. Also, Government can now purchase off-the-shelf from businesses using Government credit cards, reducing paperwork.

Now there were a number of other changes in there, but I won't review them all. I just wonder, are you aware of this and maybe it just hasn't been around long enough for you to know whether it's going to make your life any simpler with Government procurement or not.

Mr. MILLER. The possibility is were we to become fully automated to go with the computer system is that some of the bid work we hope to be doing will be done through the specifications and drawings provided by the computer. Now myself, I'm not good on a computer. I hardly know how to turn one on, but at least I understand what it produces as time goes on. We are evolving into that. We're going to start doing our Federal contract bid work off the computer, I guess you call it the Internet or the information highway. We plan on doing that because we understand that is going to be available and probably is available to us know. We have not yet utilized that.

Chairwoman MEYERS. I thank you very much for your testimony. I want to assure all of you that maybe we won't comment on every point that you made this morning, but we will review your testimony and certainly have hearings on some of these things that have been brought up and brought to our attention today.

Mr. Fleischer, I'd like to make sure that I understand your concern and I think you're saying that in the case of Franklin, at least, the appellate court said that the Federal District Court could not hear or that the Federal District Court had erred because they couldn't have a trial de novo. They can't hear it on the merits of the case. They can only hear whether the agency reviewed properly.

Go through that again with me a little, if you would. I'm not quite sure that I understood what you were saying about that and about the wiretap. What changes do we need to make?

Mr. FLEISCHER. The principal change that needs to be made is to give the citizen the right to overturn any Government action if that Government action is based on falsehood or irrelevancy.

In Franklin's case, there was no hearing by the agency. The agency compiled its own record. No Franklin personnel were permitted to see that record.

Chairwoman MEYERS. I see. So, there was a hearing among agency people, but not a public hearing as such where you were allowed to be present?

Mr. FLEISCHER. We were not allowed to be present and we were not allowed to present evidence. We were not allowed to cross examine witnesses. It was only when we were permitted to do these things that it became evident from the testimony of the agency people themselves that they had erred.

Chairwoman MEYERS. And this was in Federal——

Mr. FLEISCHER. This was in Federal District Court.

Chairwoman MEYERS. Then the appellate court said that the Federal District Court did not have a right to review it? What did the Appellate Court say about the decision of the Federal District Court?

Mr. FLEISCHER. The Appellate Court said that the act that allows the seizure of banks and thrifts states that it is up to the banking regulator to decide, based upon the record in front of that banking regulator, whether or not the bank or thrift should be seized. Thus, there is no provision that permits an examination of the veracity and relevancy of the allegations in that record. Thus, if that record said I was young and tall and capable of playing professional basketball, that would be a basis on which a decision would be made. One could not then show that I was not young and tall and capable of playing professional basketball.

Chairwoman MEYERS. I see what you are saying and I appreciate your comments and I think this is going to take some thought and review, but I understand what you are saying at this point.

Mr. FLEISCHER. Excuse me, Congresswoman. With me today is Ann Henry, a lawyer and a shareholder in another thrift in Kansas that was seized, Overland Park Savings. In dealing with the regulators, she was defrauded. She was told that if she did certain things, they then would do certain things. This was a lie. She filed an action in Federal District Court seeking to overturn the deal that she had reached. Both the District Court and the Appellate Court held although she may have had a right to overturn such an agreement, if reached with a civilian counterpart, if the Government defrauds her, she can't overturn it. Now Congress couldn't possibly have intended that kind of a result.

Chairwoman MEYERS. I appreciate your comments very much and some of this I have been aware of in the past and I appreciate very much your being here today, Mr. Fleischer.

I think I'm going to defer to Ms. McCarthy for any questions that she may have and then we're going to try to cutoff questions at about 10 of because we do have another witness who has been here. We thought he was not coming, but he has arrived, Mr. Clyde McQueen. If you would come to the table. Mr. McQueen is with the Full Employment Council.

I'll defer to you for questions and then we will move forward with Mr. McQueen.

Ms. McCarthy. Madam Chairman, I appreciate that and I appreciate your flexibility all day long. You have been just so gracious to all of us.

I wanted to pursue, Mr. Fleischer, the question that Madam Chairman asked you which was what exactly is it that we need to change and you referenced an act or a law that wasn't flexible and I think that's what she was pursuing. If there is current law that is, that omits this procedure, what is it, how do we get to it for further explanation and exploration rather than just add new law called the Truth in Government Act. What is it that needs correcting that is currently in existence?

Mr. Fleischer. Every law that Congress has enacted should provide a way in which the citizen has a right to overturn a Government action which is adverse to that citizen. In order for Congress to do what you state you would like to do would require an examination of each of those laws.

I am concerned that if you undertook that, you might read a law as providing an adequate remedy. As an example, the law that allows a bank or thrift to challenge a seizure provides that the thrift will have a right to obtain a determination upon the merits. What could be clearer than that? The only thing that I know is another law that says notwithstanding anything else we have said the citizen has the right to overturn a Government action if that action is based upon an allegation that is untrue or irrelevant.

Most of my adult life has been spent as a tax lawyer in dealing with the Internal Revenue Service. We've heard lots of complaints today, but one benefit is that the law explicitly provides that in a dispute with the Internal Revenue Service, the taxpayer can pay whatever is in dispute, file an action in Federal District Court, obtain a jury trial and if the Service is wrong, the taxpayer gets his money back with interest.

Now that's the type of relief we need for each and every Government action.

Ms. McCarthy. So a separate act, as you propose in your testimony today would encompass all those areas where such relief is not currently provided?

Mr. Fleischer. That is correct.

Ms. McCarthy. Thank you. Madam Chairman, accompanying Mr. Fleischer today are members of his family and one in particular I wanted to take a moment to acknowledge is, since this is the Small Business Committee, and she is a shining example of success in small business, it is his daughter, Pam, who by the way was a student of mine in my other life as a teacher, but went on to create a business based on a law created by the State which forbid the disposal of yard wastes in landfills. She saw the opportunity for, herself and the environment, and created a business that went around picking up these yard wastes for residents who could no longer let them be picked up by the city and it was very successful, she sold it, created another one and I just wanted to pay tribute to her and to her father who set such a good example in the business world for these kinds of efforts in dealing with the Government.

Mr. FLEISCHER. I thank you Congresswoman McCarthy. I called my daughter this morning, told her today is Take Your Daughter To Work Day and she graciously agreed to come.

Ms. MCCARTHY. And brought your granddaughter, too.

Mr. FLEISCHER. That is correct.

Ms. MCCARTHY. Quite a tribute. Thank you, Madam Chairman.

Chairwoman MEYERS. We can see that you have inherited the entrepreneurial spirit and we're very glad to have them both here with us today, Mr. Fleischer.

Mr. McQueen, can we hear your testimony at this time?

TESTIMONY OF CLYDE McQUEEN, FULL EMPLOYMENT COUNCIL OF KANSAS CITY, KANSAS

Mr. MCQUEEN. Thank you, Chairperson Meyers and Congresswoman McCarthy and I appreciate your accommodating me. I didn't anticipate some of the things, obstacles on the highway coming up here.

I am basically here and I have written testimony too. We're in a rather different position. I run an organization called the Full Employment Council in Kansas City, Missouri that basically works on the training and employment of persons dislocated, unemployed, or structurally unemployed in our five county community. We have done that for the past 8 years, have been recognized nationally for those efforts. Unlike many quote unquote Federal job training employment programs, it enjoys significant support from the private sector. As a matter of fact, the private sector in our community contributes approximately half a million in private funds annually to our program to support our efforts.

One of the main reasons why I am here today is to address on the supplier side the issue of child labor laws and specifically the impact that child labor laws have on the employment of 14 and 15 year old youth, especially during the summer where there is a restriction that restricts the amount of hours a young person can work. In our community, utilizing Federal funds, we put to work approximately during the summer about 1,200 young people between the ages of 14 and 15 who are quote unquote economically disadvantaged. When the legislation was posed eliminating summer youth program in our community, that was not as much of a problem for older kids as we typically can place them in employment, but it is for young kids, particularly those 14 and 15, and recently because of the enforcement of child labor law regulations as it relates to hours worked. In and around our community, we have approximately three businesses or four businesses that are in a theme park area and particular Worlds of Fun, Oceans of Fun and then on down toward Branson, Silver Dollar City. Those organizations, up until about 3 years ago hired 14 and 15 year old youth, but approximately 2 years ago, Worlds of Fun and Oceans of Fun happened to have some overzealous young people who wanted to stay on the clock longer than 25 hours. The Department of Labor inspector came on the site, saw those young people working and threatened them with very large fines. Those organizations that depend a lot on public relations, depend a lot on—don't want to pay heavy fines because they run a very thin profit margin, made one decision. We will not hire any more 14 and 15 year old's.

That has a tremendous impact in our community. We have to make that up either with private sector dollars that we raise or money from the Government. One of the most critical issues that faced us in our community was when the whole issue of summer youth employment came up was not whether we had a private sector alternative for 16 to 18 year old youth. We do. We do not have one for 14 and 15 year old youth. There is no private sector alternative for those young people because under the present regulatory environment, there is no private sector alternative. What we are proposing and what I strongly urge and I have gone before the U.S. City/Small Business Committee and we come here today for the same reason is that during the summer, during the summer months that 14 and 15 year old youth, if they so inclined be allowed to work 40 hours a week. Let them work, get tired, worn out and go home, sleep. In fact, create less of a demand for private and public sector resources in that area. But if we don't fix this element of it there is a vacuum that is left if we do the other thing and our board was very, we went with very strong communications when that youth employment issue came out and the concern was there to allow for transition period to try to work this out because if we can work out the regulatory environment, we feel most strongly that we can do a lot of things to get those youth hired, but they aren't going to work at McDonald's. They aren't going to work in restaurants because they don't want to risk an overzealous young person costing them money and bad press. It's a very simple thing, but in our community that's a major dollar issue, one that has caused us for the last couple of years to raise dollars to resolve.

Thank you.

[Mr. McQueen's statement may be found in the appendix.]

Chairwoman MEYERS. I guess several things about your testimony surprised me. One, I didn't realize that there was a private sector alternative for 16 to 18 year old's. I thought that was also an extreme problem in the community and then the 14 to 15 year old's, you say, what is the hour limitation?

Mr. MCQUEEN. Typically, they are only allowed to work around 25 hours a week.

Chairwoman MEYERS. 25 hours.

Mr. MCQUEEN. Yes.

Chairwoman MEYERS. So the concern of the private employer is that through oversight they will accidentally let them work 40 hours or that they're working——

Mr. MCQUEEN. They might work 26 hours or 25½ hours and clock in wrong and that's the type of zealousness that costs them and so to avoid that liability, they just don't even hire that young person because of the exposure that they have and we have seen a chill in the hiring of those young people.

Chairwoman MEYERS. I am not sure whether this is statutory or regulatory, but I rather imagine it's statutory.

Ms. MCCARTHY. I'm not sure either.

Chairwoman MEYERS. I'm not sure.

Mr. MCQUEEN. Yes.

Chairwoman MEYERS. We will look at it. I'm also not sure what the penalties and fines are. Suppose someone does go 1 hour over, do you have any idea?

Mr. McQueen. I'm not sure, but I know for a number of companies in a small business to have a company which newspapers do print so and so organization cite up a child labor law regulations they don't want in the newspaper. So, they say the best thing to do is not hire the young person. In our community, we don't have a problem hiring older kids. It's the younger kids. Some other communities may have those issues, but ours is the extremely young person.

Chairwoman Meyers. Well, I know that Congress would probably be—the laws themselves, the child labor laws obviously were enacted to prevent abuses that were happening against children by forcing them to work too many hours or in unsafe conditions or whatever and I think, but the particular situation that you're talking about certainly has a great deal of logic, if a 14 or 15 year old wants to work and can't work because of that kind of fear and concern on the part of the employer, maybe we can look at that and see if there isn't some kind of adjustment that we can make. This is summer time employment that you're talking about?

Mr. McQueen. Yes. This is only during the summer. Not during the year that they should be in school.

Chairwoman Meyers. You're not talking about school year.

Mr. McQueen. We have had two employers in our community and Worlds of Fun is the largest employer of kids, 3,000. Two years ago they used to hire a lot. They do not hire them at all any more.

Chairwoman Meyers. We appreciate hearing from you and Karen, do you have questions?

Ms. McCarthy. No Madam Chairman. I thank you very much once again.

Chairwoman Meyers. All right, well, I thank every member of this panel as well as our previous panels. It's been very enlightening to me. We will go back to Washington with a lot of ideas and suggestions and again, I thank you very much.

The meeting is adjourned.

[Whereupon, at 5 p.m., the committee was adjourned, subject to the call of the chair.]

90-701 - 96 - 4

APPENDIX

Opening Statement
Jan Meyers, Chair
House Committee on Small Business
Kansas City Area Field Hearing

Good morning. This hearing will come to order. I welcome my colleague Karen McCarthy of Missouri, who joins us today.

It will come as no surprise to this audience that small business plays a vital role in the economy of this region. The overwhelming majority of new jobs are created by small business; the government's support of small business is critical.

We of the Committee on Small Business take this responsibility most seriously. We are in the process of developing the Federal budget for the coming year, and we are committed to reducing the cost and size of government. Although the Senate did not pass the Balanced Budget Amendment, the Congress is working on this budget with an eye towards meeting that objective.

As you may be aware, the Committee has spent the early months of this new Congress holding an extensive series of hearings reviewing issues that are critical to the health and growth of small business, ranging from tax issues to regulatory issues to a comprehensive analysis of the Small Business Administration's programs. We are gathered here to go to the source: the small business men and women of Kansas and Missouri and the organizations and people who help them to succeed. It is here, rather than in Washington, that we will hear the most meaningful testimony on what works and what doesn't work.

Our hearing this morning is focused on the SBA programs. Our first panel will discuss the SBA financing programs from the perspective of the borrower. Our second panel will give the lenders' perspective. The next panel will address the SBA's management and technical assistance programs. The morning will be rounded out with testimony from SBA's Regional Administrator, Bruce Kent.

In the afternoon, we will discuss tax and regulatory issues and close with an open forum panel which will help summarize the range of small business issues we will hear about today.

Our format is quite straightforward: each witness on the panel will speak for five minutes, and once all the panelists have completed their testimony, we will ask questions. You'll notice that there are colored lights on the table. These lights will turn from green to yellow when you have one minute left, and will turn to red once your time is up. Once the light turns red, please do your best to wrap up your remarks as quickly as possible. All the written comments each of our witnesses have submitted, complete with any exhibits, will be made a part of a

formal record which will be published as part of the proceedings of this hearing.

I want to thank in advance all our witnesses for the time and effort that they have put into the comments that will be submitted to the Committee. I want to assure all of you that we will read the whole of your prepared statements.

REMARKS BY MRS. MEYERS-- AFTERNOON

This afternoon we will hear from three panels of citizens from the Kansas City area. Again, I expect the points of view will be distinctly local-- not the usual expert Washington witnesses the Committee often hears from in the Nation's Capitol.

A major purpose of this field hearing is to listen to what citizens in this area are saying and suggesting so that we can bring their ideas to the Small Business Committee's work.

This year, the new leadership in Congress has assigned the Small Business Committee specific oversight responsibility for regulatory reform and paperwork reduction. This jurisdictional interest is in addition to our interest in the Small Business Administration's programs and in other important policy concerns that significantly impacts small businesses, such as the tax structure.

Increasingly, we find that fostering a healthy economic environment for the entrepreneurial spirit of small business is the most vital factor for economic growth and the jobs-- the employment opportunities-- that accompany it. Small business is the most dynamic aspect of the American economy.

Our first panel will discuss tax issues. Let me note I am pleased Congress passed the 25 percent health insurance deduction for the self-employed just before the recent recess. I sponsored that effort. I support and am working to see that deduction become 100 percent.

On the regulatory reform front, I am also pleased that two pieces of the Republican Contract, the Paperwork Reduction Act and amendments to the Regulatory Flexibility Act were passed by the House after hearings in our Committee. The Senate has acted on the Paperwork Reduction Act and the President will sign that law when Congress returns. The Reg Flex legislation is contained in Senator Dole's omnibus regulatory reform bill which I understand will be passed by the end of May.

I mention this because the witnesses in our second panel will discuss the consequences of regulatory and paperwork burdens on small businesses. They will point out some specific targets that the Committee can focus upon in the upcoming weeks. The first one hundred days of Congress have effectively placed some legislative tools to reduce regulatory paperwork on line. Now our Committee will turn to the hard work of oversight and seeing to it that something actually happens to reduce regulatory excesses. Our second panel's suggestions will be most helpful.

The final panel will be an open forum. We will hear a number of insights which will serve to highlight the Small Business Committee's overall interest in the role small business

plays in our economy. I believe they will crystalize and summarize the range of ideas we will have heard throughout today's hearing.

Statement Prepared for Presentation
to Small Business Committee
U.S. House of Representatives
Ms. Jan Myers and Ms. Karen McCarthy

Good Morning:

Thank you for the opportunity to present my views before your committee today.

My name is Randee Brady and I am the Small Business Development Center Coordinator at Central Missouri State University in Warrensburg, MO. I have worked as a consultant and director at 3 different SBDC locations since 1982. Also, I owned and operated two separate businesses from 1973-1982.

I would like to present the committee with an analysis of the U.S. Small Business Administration's Small Business Development Center (SBDC) program.

I. Brief Overview

I am part of a national network of 942 Small Business Development Centers located throughout the United States. Our centers provide management assistance to small businesses through individualized counseling and business management training. The core competency of the system includes financial and marketing assistance to help companies ;build strategies to remain competitive.

The Small Business Administration statistics reveal that 80 percent of the new jobs between 1987 and 1992 were created by firms with fewer than 20 employees. The SBA projects that between 1992 and 2005, small business-dominated industries will create 68 percent of the new jobs.

So, in essence, our work is just beginning.

The SBDC system is the only business development network currently serving all aspects of the small business community: retail, service, manufacturing, new business start-ups, inventors of new products or new service concepts, women-owned businesses, contractors, minority-owned businesses and so on.

More than 50 percent of the SBDCs' clients are new or start-up businesses. When you consider that there are only 700,000 new or start-up businesses each year, you can see that our services are disproportionately important in this vital area of the country's economic development.

And the very businesses we help are the major generator of jobs in this country. Among businesses, it is the newer and smaller firms that create most of the jobs. In fact, most net new jobs in the U.S. economy are being created by the very small companies, with two out of three net new jobs being created in start-up firms.

In working with small businesses, it has become apparent to us that owners of these small and primary start-up firms often do not understand basic business management. Many times, they do not even recognize their lack of understanding.

Assistance for these business owners needs to be of a very holistic nature. There is not any ONE problem that afflicts small business. Many of our clients need our help in many areas-often simultaneously.

In a recent article in the *Harvard Business Review*, Prof. Amar Bhide states that most small businesses do indeed begin with small amounts of capital. However, instead of money, Prof. Bhide points out that these businesses need to 1) get operational quickly; 2) focus on reaching a break-even point quickly; 3) find markets where they will fill a unique need; 4) manage their cash flow; and 5) manage growth. And they can't afford a high-cost management team to help them do this.

That's why they need the SBDC. These are the very areas in which we are trained to assist them. And assist them we do, preventing many companies from unnecessary failures and weak market positioning.

II. Importance of SBDC to Small Business Sector

The impact of what we do is extensive.

According to an independent study conducted by James Chrisman of the University of Calgary, in 1992 long-term SBDC clients created 68,467 jobs nationwide as the result of SBDC assistance.

After considering the total cost of operating the SBDCs in the 47 participating states, the cost of generating each of these jobs was $1,692 per job. In Missouri, that number was even lower--$1,251 per job.

Incremental tax revenues generated by those SBDC clients during 1993 exceeded the cost of their counseling by a ratio of 7.52 to 1.00.

During 1992, the Missouri SBDC program resulted in the creation of 2,574 new jobs, $4,900,000 in additional federal tax revenues, and $6,800,000 in additional state tax revenue. The consultation provided to long-term clients generated $3.62 in new tax revenue for every $1.00 spent on the SBDC program.

As you can imagine, our counselors stay busy.

During 1994, SBDCs counseled 224,995 proposed or existing businesses nationwide and provided 17,066 training events that reached 331,987 attendees.

The Warrensburg SBDC alone, with which I am individually familiar, provided counseling services during the 1993/1994 operating year to 24 retail establishments, 61 service companies, 4 wholesale operations, 146 manufacturing companies and 12 construction firms for a total of 247 different clients and providing over 3,500 hours of individual counseling.

The SBDCs are the only business development network currently serving all aspects of the business community (retail, construction, and service as well as manufacturing) through traditional business services such as finance, marketing and others. In addition, some centers have specialized service programs such as engineering and technical assistance, technology transfer, procurement programs and others.

The SBDCs have a record of service to populations that have traditionally been unserved or underserved by other economic development programs. Women, for example, constitute approximately 40 percent of our clients.

The SBDCs help individuals who are victims of corporate or defense downsizing. Many have innovative ideas or technologies they believe would form the foundation of a small business venture. We help those people bring their ideas to market.

The SBDCs help businesses struggling with financing, regulatory requirements and marketing challenges.

That is who we help.

But perhaps the best way to show you how we help is to tell you the story of one of the companies and individuals with whom we have worked.

Ace R/C Company of Higginsville, Missouri

This company is a 40 year old manufacturer and distributor of model, radio controlled airplanes and cars with about 3,000 individual products sold through dealers via catalog and direct sales. Employment was at about 30 people and revenues averaged about $3,000,000 to $5,000,000 in annual sales.

The former company president and owner was referred to the Warrensburg SBDC by Mr. Ike Skelton's office in 1994.

Specific business problems identified at that time included:

A) Requested assistance with a new product development and funding help to support this product introduction.
B) A problem with declining sales revenues.
C) Marketing problems.
D) Manufacturing process problems.

The problems B, C, and D mentioned above were not identified by the business owner but were uncovered as a result of the SBDC investigation. Specific assistance provided initially by the Warrensburg SBDC included:

A) Discouraging the development of the new product when the company was close to financial collapse.

B) Analysis of the company's financial position through a financial analysis of balance sheet and income statements. This uncovered:
   1) A severe cash flow problem.
   2) A sales growth problem.
   3) A high inventory build up problem.

A quick tour through the manufacturing facility revealed numerous opportunities for cost savings. At about this point in time, the owner ran out of cash and virtually closed the company. Through the Center for Business Innovation in Kansas City, a buyer for the business assets was found and he purchased the business, retaining the former owner as an assistant. Since that time, the company has reopened on a more limited basis and is back in business with about 20 employees.

III. Why SBDCs are unique, non duplicable and should be preserved.

The SBDC program is a unique partnership among the federal, state and local government, higher education and the private sector to jointly fund and provide critically important business assistance services. In addition, SBDCs regularly build partnerships with other entities who can assist small businesses, including banks, chambers of commerce and economic development agencies.

And these are partnerships in the true sense. Many of these entities I have mentioned contribute matching funds to the SBDC program. At present there are more non-federal dollars than federal dollars invested in the SBDC program. So it's clear that our partners believe as strongly as we do in the value of what we do. In addition, these partners hold us accountable for our performance and impact.

In Warrensburg, we have 2 distinct service centers: Small Business Development Center and Small Business Technology Center. The total budget is $376,600 and federal dollars are only 45% of this total.

The SBDCs offer practical, effective business counseling, training and individualized education and information from specialized research that is critically important to business. With a comprehensive, integrated approach to analyzing business performance, the SBDC consultants can accurately differentiate between symptoms and root causes. The clients benefit immediately, as the focus is on addressing causes, and SBDC consultants recommend effective strategies for improvement.

Small businesses have small margins, which is a very precarious situation; they cannot afford to make many mistakes. SBDCs educate owners/managers in the "nuts and bolts" of running a business, and monitoring the accounting and financial systems, effective marketing plans, cash flow and inventory control, cost-effective advertising, etc.

Many entrepreneurs are excellent technicians or producers, but are not experienced in management principles. Often, entrepreneurs are not aware of their own deficiencies in diagnosing, monitoring, and analyzing their own operations. That's when the SBDC can provide the greatest services, helping avoid unnecessary business failures, avoid weak market positioning, and transforming a floundering business into a thriving company with even greater potential.

V. Recommendations and Suggested Improvements

From my perspective as an individual Small Business Development Center Director, I can envision some improvements to make the program more effective. These improvements would include:

A. Leverage Existing Resources

The establishment of an integrated small business development system that coordinates all of the various resources available to small businesses that has centralized client intake and channels the client to the most appropriate resource within a community and that has no duplication of services would increase program effectiveness. This model is now being developed in Missouri on a regional basis.

In addition to individual counseling, a program of group education and counseling through the use of interactive small groups of businesses lead by a counselor may be more effective. Support groups, more group training and education and partnerships with other business groups such as Chambers of Commerce could

become part of the system which leverages existing resources, including the existing SBDC network of Centers throughout the country. These types of improvements are being addressed here in the greater Kansas City area.

B. Utilize New Technology

Many states, including Missouri, have sophisticated electronic services providing small businesses with state-of-the-art access to information and expertise critical to their success

The SBDC at Central Missouri State University has been using, on an experimental basis, interactive television with locations in Warrensburg, Clinton, Holden, and Pleasant Hill, Missouri. Through this network, regular small business training on a wide variety of critical business topics is simultaneously available at four separate, remote sites. A single business instructor can teach and interact with small business persons at several locations throughout the region.

C. Program Revenue

The SBDC system could, through concentrated research and development, design and develop some products and services which could be offered on a fee-for-service basis.

Many small firms and entrepreneurs cannot afford to pay for all of the counseling and advice provided by SBDC offices, but beyond a first tier of entry level (basic) services, more extensive and in-depth counseling, training and education may provide some program income through fees to supplement the federal "seed money" and the matching funds provided by the host Universities.

Many Small Business Development Center locations or systems depend upon supplemental funds from state government and/or private industry.

VI. Conclusion

It is my view that the existing nationwide SBDC network is the only comprehensive system that supports small business activity in the country. Although the system may have its shortcoming, it is a system that has been proven to provide jobs, increase tax revenue to the government and stimulates and supports small business success and growth through its programs of counseling and training.

The present structure provides winners from all elements of the system.

First, small businesses win because of the survival and growth opportunities provided through the SBDCs.

Next, the country and various communities win because small business growth provides jobs and increased economic activity.

The Universities where SBDC operations are located win because this alliance provides faculty and students the opportunity to work in real life, actual business situations and to apply the latest techniques, newest thinking and modern technology to small businesses who cannot afford these services on their own.

I ask you to please exercise the control inherent to Congress, to maintain the existing SBDC system of support to small business and to vote to continue or enhance this Country's small businesses existence, health and growth.

Thank you.

TESTIMONY PRESENTED TO THE U.S. HOUSE OF REPRESENTATIVES
SMALL BUSINESS COMMITTEE
THE HONORABLE JAN MEYERS, CHAIRWOMAN
APRIL 27, 1995

My name is Judith Burngen and for 11 years I worked with the Missouri Small Business Development Center at Rockhurst College in Kansas City, Missouri. I began in 1983 as a consultant to assist the director in operationalizing this new program. On September 1, 1984 I became the center's director. 10 years later I left that position.

I personally want to thank Congresswoman Jan Meyers and Congresswoman Karen McCarthy for conducting this hearing. It is a vital part of the information and ultimately the decision process.

ROCKHURST COLLEGE SBDC HIGHLIGHTS

During my tenure the center grew from a $20,000 budget to over $200,000. The staff and consultant team grew from 2.5 to 7. In 1985 we partnered with the city of Kansas City, Missouri and the Community Development Corporation to open a branch center in the central city accessing a significant and under served African American community. We developed an on-site continuing education program and a unique pre-business education program. The staff are experts in small business management with strong financial, marketing, and industry backgrounds. This combination gave us good visibility and lead us to advise between 250 and 350 clients a year and train up to 500 individuals yearly. About 25% of our clients were minority and 35% we female business owners. Approximately 25% of our clients sought services to assist them start a business and 75% sought services to help solve business problems or to learn management techniques.

I URGE YOUR COMMITTEE AND ESPECIALLY THE NEW CONGRESSIONAL MEMBERSHIP TO SEEK TO UNDERSTAND THE SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

I ask that each member of the House Small Business Committee visit their local SBDC center to speak with the small businesses who have benefitted from the services and to meet the expert staff who provide the business management counseling and training services. This process will allow each member to gain knowledge of the valuable services their constituency receives. What better way to make informed decisions!

I URGE THE COMMITTEE TO RETAIN AND STRENGTHEN THE SBDC IN THE FUTURE FEDERAL BUDGET.

My testimony today offers constructive proposals given the reality of budget concerns.

I ASK THAT THIS COMMITTEE ASSIST IN BUILDING A BUDGET AND BUILDING CONGRESSIONAL SUPPORT AROUND THE STRENGTHS OF THE SBDC, THE SBA AND THE NEEDS OF THE NATION'S SMALL BUSINESSES.

In the Greater Kansas City area over 90% of the businesses employ less then 100. The small company is the strength of our area and the nation's economy. I recommend that the committee continue to assist in fueling this engine by providing vital services which combine the strengths of the SBA, SBDC and the needs of small businesses.

NEEDS OF SMALL BUSINESS

The two dominate requests presented by individual business owners who contact an SBDC are, need for capital and the need to be profitable. Translated this means help us attain financing, help us solve businesses problems (including regulatory issues) and help teach us how to manage and market our business. These needs are the service strengths of the nationwide SBDC program and especially the center I directed. The source of financing is the strength of the SBA guaranteed loan programs.

STRENGTHS OF NATIONWIDE SBDC PROGRAM

A delivery system is in place. The SBDC is a nationwide expert network of 900 centers.

The SBDC provides the government an excellent return on investment. For example, the Missouri SBDC clients, based on the most recent impact study , generated $3.62 in tax revenues for every $1.00 of their total budget. (47% federal support& 53% match) If you take away the match portion the taxes generated are $7.25 for every $1.00 of federal support

The federal money is well leveraged. Over 50% of this SBDC's nationwide budget is supplied by state and local match funds.

The SBDC has qualified expertise to meet the requested wants of business owners. The bottom line is that small businesses want business skills which help them solve problems, bring about sustained growth and create profits. Adequate capital, important as it is, does not solve management skill issues.

The SBDC is affordable and user friendly. Accessing consulting advice is awkward for the businesses owner and many times cost prohibitive. The SBDC is an objective, non pressure source of services

The SBDC understands the dilemmas of small business and can structure and provide practical, useful advice

STRENGTHS OF THE SBA

The guarantee loan programs and 504 loan program are the greatest strength of the SBA and the program which meets the largest and most vocal need of small businesses

RECOMMENDATIONS FOR COMMITTEE CONSIDERATION

Within the framework of the SBA's business development programs, I strongly encourage the committee to continue the two largest and strongest programs of the agency, the financing program and the Small Business Development Center program. Specifically, I propose structuring the Small Business Administration to operate its best product, the loan programs Second, I propose retaining and strengthening the SBDC program as the major nationwide small business management assistance program.

The following are specific suggestions.

1. FIRMLY ESTABLISH THE SBDC AS THE NATIONWIDE SMALL BUSINESS MANAGEMENT ASSISTANCE DELIVERY AGENCY AVAILABLE TO ALL SMALL BUSINESSES INCLUDING THOSE WHO ARE SEEKING OR WHO HAVE AN SBA LOAN. PROVIDE FUNDING AT NO LESS THAN THE FY 95 APPROPRIATION.

2. COLLAPSE SCORE, THE SBI PROGRAM, WOMEN BUSINESS OWNERSHIP AND MINORITY ASSISTANCE INTO THE SBDC MANAGEMENT.

3 CREATE A CLEARINGHOUSE FOR INFORMATION ABOUT TARGETED ASSISTANCE PROGRAMS AND REGULATIONS WITHIN THE SBDC NATIONWIDE NETWORK.

4. ELIMINATE THE FEDERAL REGULATION REQUIRING THAT MATCH DOLLARS FOR THE SBDC FUNDING MUST BE COMPRISED OF NON- PROGRAM INCOME

5. ELIMINATE THE NO CHARGE FOR SERVICE GUIDELINE AND AUTHORIZE THE SBDC TO SEEK PAYMENT CONTRIBUTIONS FOR SERVICES

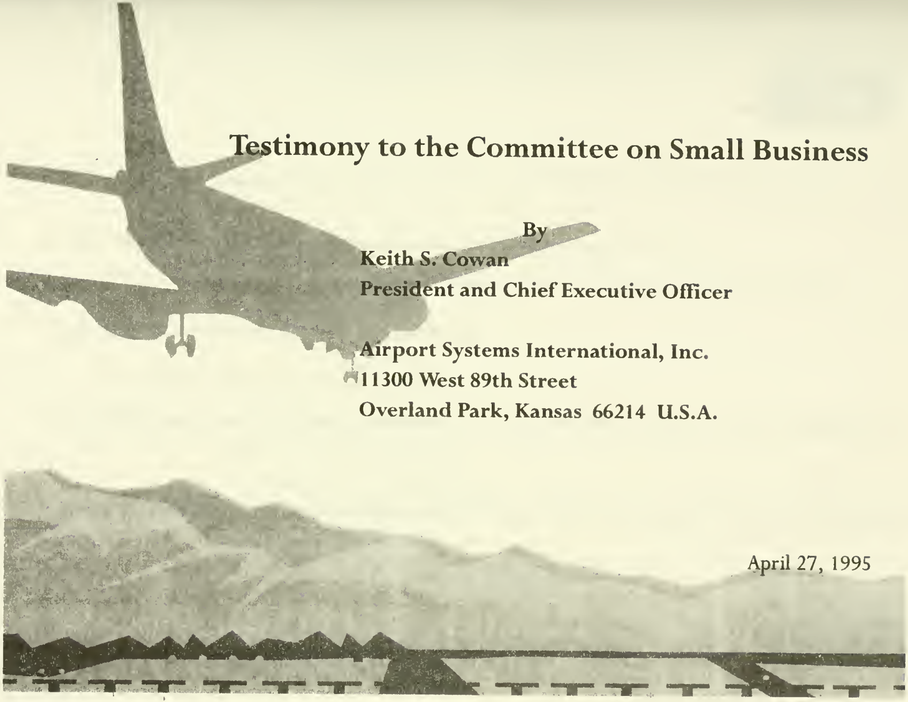
6. ENCOURAGE THE ESTABLISHMENT OF A PRIVATE FUNDRAISING FUNCTION WITHIN THE SBDC WHICH WOULD SEEK CONTRIBUTIONS FROM CLIENTS AND CORPORATIONS AND GRANT FUNDING FROM FOUNDATIONS

7. REDIRECT SBDC REPORTING REQUIREMENTS TO FOCUS ON ECONOMIC IMPACT AND RESULTS.

8 AUTHORIZE THE LEAD STATE SBDC OFFICE TO CONDUCT THEIR OWN AUDIT REVIEW OF THEIR STATEWIDE SYSTEM UTILIZING A PUBLIC ACCOUNTING FIRM. AUTHORIZE SPECIAL FUNDS FOR THIS REQUIREMENT

9 RESTRUCTURE THE SBA AS THE ADMINISTRATOR OF ITS BEST PRODUCT, GUARANTEE LOANS INCLUDING THE 504

10. RETAIN THE OVERSIGHT OF THE SBDC WITHIN THE NATIONAL SBA OFFICES



Testimony to the Committee on Small Business

By

Keith S. Cowan
President and Chief Executive Officer

Airport Systems International, Inc.
11300 West 89th Street
Overland Park, Kansas 66214 U.S.A.

April 27, 1995

Company Background

- Leading supplier of aircraft navigations systems to airport and civil aviation authorities

- Have provided products and services to 35 countries, improving air safety world-wide

- $18 million in annual revenue - 3/4 exports

- All products designed and manufactured in Overland Park, Kansas

AIRPORT SYSTEMS INTERNATIONAL, INC.

Company History

Company formed in 1991 by a group of venture capital companies

Purchased assets of a company operating in Chapter 11 bankruptcy

Initial funding a combination of:

- SBIC venture capital
- Private venture capital
- Commercial bank debt

SBIC Venture Capital Essential to Initial Financing

- No operating track record
- Relatively unknown management
- Lack of hard assets
- International Focus
- Not located in a high-tech venture capital intensive location

INTERNATIONAL INC

Public Ownership Transition

- Public offering of stock completed in November 1993
- SBIC, private venture and bank investment repaid with proceeds
- Substantial capital gain for initial investors
- Increased capitalization to allow continued growth

INTERNATIONAL INC.

Economic Contributions

- 130 full-time employees
- $5,000,000 per year in purchases from U.S. suppliers
- $600,000 per year in federal, state and local taxes
- $15,000,000 per year positive trade balance contributor
- Recommend continued support for the SBIC program

INTERNATIONAL INC

THANK YOU FOR THE OPPORTUNITY TO SPEAK TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON SMALL BUSINESS.

MY NAME IS JERRY DARNELL. I AM THE CFO OF AVIS FURNITURE COMPANY, WHICH IS LOCATED IN KANSAS CITY, MISSOURI. I FEEL I AM QUALIFIED TO PRESENT MY IDEAS FOR THE FOLLOWING REASONS:

1. LIFETIME INVOLVEMENT WITH SMALL BUSINESS STARTING AT AGE 10 IN THE FAMILY BUSINESS.
2. COMMERCIAL LENDING OFFICER AT SEVERAL BANKS SPECIALIZING IN SBA LOANS.
3. SBDC COUNSELOR AT JOHNSON COUNTY COMMUNITY COLLEGE WORKING WITH START-UP BUSINESSES.
4. INSTRUCTOR AT JOHNSON COUNTY COMMUNITY COLLEGE IN THE BUSINESS DEPARTMENT AND ENTREPRENEUR CLASSES.
5. OWNER OF TWO SMALL BUSINESSES.

I HAVE TWO SPECIFIC POINTS THAT I WANT TO MAKE:

1. **THIS COUNTRY WAS FOUNDED ON SMALL BUSINESSES AND ITS FUTURE WILL BE WITH SMALL BUSINESSES. THE FOCUS NEEDS TO BE ON BUSINESSES THAT : a) HAVE A PRODUCT b) HAVE CUSTOMERS c) HAVE THE ABILITY TO REPAY ANY LOAN AND d) ARE PROVIDING JOBS FOR THE COMMUNITY.**
2. **UNDERSTAND THAT BECAUSE OF REGULATORY PRACTICES OVER THE LAST 20 YEARS BANKS HAVE LOST THEIR ZEST OR WILLINGNESS TO TAKE ON RISK. THEY HAVE FORGOTTEN THAT "PEOPLE REPAY LOANS -- NUMBERS DON'T.**

ALLOW ME A BRIEF STORY TO UNDERLINE MY POINTS

I AM CFO OF A LOW TECH, HANDS ON-SMALL MANUFACTURING COMPANY WHOSE PRODUCTS ARE THE BOOTHS AND TABLE TOPS USED BY RESTAURANTS THROUGHOUT THE COUNTRY. WE HAVE SOME NATIONALLY KNOWN RESTAURANT CHAINS AS CUSTOMERS AS WELL AS MANY INDIVIDUALLY OWNED RESTAURANTS. MY PARTNER AND I PURCHASED A GOING FAMILY BUSINESS TWO PLUS YEARS AGO. WE HAVE CONVERTED THE COMPANY TO OPERATE AS A BUSINESS BUSINESS AT A MUCH HIGHER SALES LEVEL. THIS CONVERSION TOOK TIME AND MONEY.

OUR SALES THIS FISCAL YEAR WILL MORE THAN DOUBLE THE PREVIOUS FISCAL YEAR. OVER THE LAST 12 MONTHS OUR GROWTH RATE HAS EXCEEDED 70% AND BY THE TIME CHRISTMAS ROLLS AROUND THIS YEAR WE WILL HAVE TACKED ON ANOTHER 50% ABOVE THE 70%. A LITTLE OVER TWO YEARS AGO WE HAD 14 EMPLOYEES AND RECENTLY OUR WEEKLY PAYROLL WAS TRIPLE THAT. DURING THIS GROWTH PERIOD OUR RATIOS -- THOSE LITTLE NUMBER GUIDELINES THE BANKS LOVE SO WELL-- LIKE GROSS PROFIT -- EXCEEDED THE INDUSTRY AVERAGE BY BETTER THAN 5%-- AND OUR NET INCOME WAS TWICE THE INDUSTRY AVERAGE WHEN ANNUALIZED. BE ASSURED WE ARE A TYPICAL SBA LOAN CUSTOMER MEETING WEEKLY PAYROLLS AND DEALING WITH RIDICULOUS VOLUMES OF MEANINGLESS PAPERWORK AND OCCASIONALLY WE SEEK A LOGICAL ANSWER TO OUR PROBLEMS.

WE WOULD HAVE PREFERRED A LINE OF CREDIT TO HANDLE THIS GROWTH, HOWEVER OUR BANK COULD NOT ACCOMODATE OUR REQUEST BECAUSE THE SBA HAD REDUCED ITS GUARANTEED LOAN CEILING FROM $750,000 TO $500,000. I'M POSITIVE THAT WE WOULD HAVE RECIEVED AN IDENTICAL RESPONSE FROM ANY SBA LENDER IN THE COUNTRY. THAT RESPONSE BEING **"BECAUSE THE SBA LOWERED ITS LENDING LIMIT FROM $750,000 TO $500,000 WE CANNOT JUSTIFY THE EXPOSURE."**

POINT: PERFORMANCE ABOVE ACCEPTABLE LEVELS FOR A REASONABLE TIME PERIOD, PROVEN ABILITY TO PERFORM ON THE DEBT SERVICE, AND PROVIDING JOBS WAS NOT GOOD ENOUGH TO CONVINCE COMMERCIAL LENDERS TO STEP UP AND TAKE A RISK.

POINT: WITHOUT THE SECURITY DEVELOPED OVER A 40 YEAR PERIOD OF TIME BY THE SBA, LENDERS WILL NOT TAKE THE RISK. THEY WON'T RISK THE WRATH OF THE REGULATORS OR THEIR OWN STOCKHOLDERS. MONEY IN THEIR POCKETS IS PARAMOUNT TO THE POTENTIAL COMMUNITY BENEFIT. WHETHER THE GOVERNMENT LIKES IT OR NOT, THEY HAVE A **DIRECT** AND **VITAL** IMPACT ON THE DEVELOPMENT OF SMALL BUSINESSES.

SUMMARY: MY CHALLENGE TO YOU

- **MAKE LOANS TO COMPANIES WHO ...**
- **HAVE A PRODUCT THAT IS IN DEMAND**
- **HAVE CUSTOMERS**
- **CAN REPAY THE LOAN THROUGH CASH FLOW**
- **CAN PROVIDE JOBS FOR THE COMMUNITY**
- **INCREASE THE GUARANTEED LIMITS TO AN APPROPRIATE LEVEL AND PROVIDE OPERATING LINES OF CREDIT WITH THE FLEXIBILITY TO HANDLE TIMING DIFFERENCES WITHOUT THE CUMBERSOME PAPERWORK REQUIRED BY PEOPLE WHO DON'T UNDERSTAND IT AND TEND TO USE IT AS A REASON FOR DENIAL OF CREDIT RATHER THAN APPROVAL OF CREDIT.**

BE ASSURED THAT THIS COUNTRY IS FULL OF QUALITY BUSINESS PEOPLE WHO CAN BE MAJOR CONTRIBUTORS TO OUR ECONOMY. THEY HAVE IMMENSE PRIDE IN THEIR ABILITIES AND THEIR PRODUCTS AND THEY ARE HORRIBLY HAMPERED BY THE LACK OF COMMON SENSE WHICH SEEMS TO HAVE TAKEN OVER THE MAJOR INSTITUTIONS IN OUR COUNTRY.

LET'S LOOKS AT SOME SPECIFICS AS TO WHY AND HOW THE ABOVE IDEAS MIGHT WORK.

THE 7(a) PROGRAM:

LONG TERM CONTRIBUTIONS

- HAS PROVIDED FUNDING FOR MANY SMALL BUSINESSES SINCE THE EARLY 50'S
- NUMEROUS SUCCESS STORIES HAVE EMANATED FROM THE SBA PROGRAM
- OVER THE YEARS, THE SBA HAS ATTEMPTED TO CORRECT DEFICIENCIES AND MAKE THE PROGRAM ADAPTABLE TO CURRENT NEEDS.

LONG TERM DEFICIENCIES

- THE VOLUME OF PAPERWORK HAS BEEN OVERBURDENING MUCH OF THE TIME
- HAS HAD "MISUSES OF THE PROGRAM" WHICH HAVE NEGATIVELY AFFECTED PUBLIC SUPPORT
- HAS CHANGED ITS EMPHASIS TOO MANY TIMES IN ATTEMPTS TO BE ALL THINGS TO POTENTIAL BORROWERS
- HAS ALLOWED THE POLITICAL PROCESS TO INTERFERE WITH THE LOAN PROGRAMS
- HAS TOO MANY RIGID RULES WITH NO ROOM FOR JUDGMENT

MY OVERALL RECOMMENDATION IS TO FOCUS ON THE BUSINESSES THAT CAN AND WILL CREATE JOBS AND HAVE CUSTOMERS FOR THEIR PRODUCTS. TO DO THIS EFFECTIVELY A REFOCUS ON THE GOALS BY REWRITING THE OPERATING GUIDELINES IS NECESSARY.

HOW – TAKE THE SPECIFICS, THOSE ONEROUS GUIDELINES OUT AND REPLACE THEM WITH A BROAD STATEMENT IDENTIFYING THE PURPOSE OF DEVELOPMENT OF JOBS AND THE PROMOTION OF STABLE GROWTH-ORIENTED BUSINESSES. ALLOW JUDGMENT AS TO THE VIABILITY OF THE APPLICANTS.

COST OF BORROWING – THIS MAY BE THE BIGGEST OF THE ROCKS BEING HUNG AROUND THE NECK OF SMALL BUSINESSES. ESTABLISH A FIXED MARKET RATE, SET AT THE TIME OF CLOSING. USE A FLOAT-DOWN SYSTEM TO MAINTAIN THE INTEREST RATE AT OR BELOW THE CLOSING RATE. INTEREST RATE ADJUSTMENTS UNDER THE CURRENT SYSTEM ARE DETRIMENTAL TO THE SMALL BUSINESS WHICH IS THE INTENDED BENEFICIARY OF THE PROGRAM. THE ONLY PEOPLE BENEFITING FROM THE NUMEROUS CHANGES IN INTEREST RATES ARE THE "WALL STREET GURUS AND THE BANKERS. IF THIS "LOST" INCOME IS RETAINED BY SMALL BUSINESSES THEN MARKET PLACE STABILITY WILL PREVAIL. THE PROFIT GENERATED FROM GROWTH WILL GO TO THE BUSINESS TO REPAY THE LOAN IN A TIMELY MANNER, CONTINUE TO GROW THE BUSINESS AND SHARE THEIR PROFITS WITH THEIR EMPLOYEES THROUGH 401 PLANS OR BONUSES.
THE FEDERAL FUNDING OF THE SMALL BUSINESS PROGRAM COULD BE DONE BY DIVERSION OF FUNDS NOW SENT OVERSEAS TO HELPING THE PEOPLE OF OUR COUNTRY.

COLLATERAL – LOANS ARE ACTUALLY REPAID THROUGH THE GENERATION OF PROFITS. BY TAKING EVERYTHING THE BUSINESS PERSON HAS OR MIGHT EVER HAVE IS A DETERRENT, NOT A STIMULUS. I'M REFERRING TO EXCESSIVE DEMANDS ON THE PERSONAL EFFECTS. ANY BUSINESS WORTH ITS SALT WILL GLADLY PUT UP THE ASSETS DIRECTLY PERTAINING TO THE LOAN AND ITS BENEFITS.

CONDITIONS – USE COMMON SENSE WHEN ATTACHING CONDITIONS TO THE LOAN. FEATURES SUCH AS EXCESSIVE LIFE INSURANCE CAUSE A CASH DRAIN AND SELDOM IS A POLICY USED TO PAY OFF A LOAN.

TYPE OF LOANS – A LINE OF CREDIT IS CRITICAL TO MAINTAINING THE CONTINUITY OF THE BUSINESS FROM DAY TO DAY. IT ENABLES THE BUSINESS PERSON TO EFFECTIVELY HANDLE THE TIMING DIFFERENCES BETWEEN SUPPLIERS AND CUSTOMERS AND TO MEET THE PAYROLL.
LOANS SHOULD BE LIMITED TO MACHINERY, EQUIPMENT, FURNITURE AND FIXTURES AND WORKING CAPITAL.

LOAN FEES: A MAXIMUM OF 1% OF THE GUARANTEED AMOUNT IS SUFFICIENT FOR THE PURPOSES OF THIS PROGRAM.

AMOUNT OF BORROWING: EACH BUSINESS IS DIFFERENT AND IS OPERATED DIFFERENTLY, SO WHY SHOULD THERE BE A SET CEILING OR ARBITRARY CONDITIONS TO INHIBIT AN INDIVIDUAL BUSINESS.

BUSINESS RESPONSIBILITY: THE BUSINESS OWNER WITHIN A REASONABLE LENGTH OF TIME, SHOULD BE FINANCIALLY STRONG ENOUGH TO OPERATE WITHOUT A GUARANTEE TO BORROW FUNDS. THESE FUNDS ARE THEN AVAILABLE FOR NEW BORROWERS. THE BUSINESS PERSON IS RETURNING TO HIS COMMUNITY THE FOLLOWING: JOBS WITH THEIR INHEIRENT ECONOMIC IMPACT, PAYMENT OF TAXES, AND THE OPPORTUNITY TO BE A CONTRIBUTING MEMBER OF SOCIETY.

WHO SHOULD SUPPORT THIS PROGRAM: THE BENEFICIARIES OF THIS PROGRAM ARE THE LOCAL, STATE, AND NATIONAL GOVERMENTS, THE BANKS, THE COMMUNITY AND THE BUSINESS ITSELF. A SHARING OF THE GUARANTEE BY SOME SIMPLE % FOR EACH ENTITY IS LOGICAL. AREAS THAT WANT TO GROW WILL AND THOSE THAT DON'T WANT TO – WON'T. THIS SHOULD PUT THE COMMITMENT DOWN WHERE IT IS BEING USED. MONITORING THIS PROGRAM NEEDS TO BE ARMS LENGTH FROM THE GOVERNMENT AGENCIES WITH THE APPROPRIATE LEVELS FUNDING THE COST OF ADMINISTRATION IT WOULD TAKE A STRONG INDEPENDENT AGENCY TO BE EFFECTIVE.

Testimony before the
United States House of Representatives
Committee on Small Business
April 27, 1995

We appear today before this Committee to urge the enactment of the Truth in Government Act. A draft of the proposed Act is attached to the written summary of our testimony.

Business people understand that business cannot function effectively unless business people are truthful with each other. Nor can government function effectively if government people are untruthful. Business people should not have to fear government by falsehood.

The business of every small business person is permeated by government rules and regulations. Today that small business person justifiably fears business ruin not from doing wrong, but from wrongly being found to be wrong by the government or its agencies. The Act permits the business person to prove in court that government action was not based on truth or relevance and thereby obtain a judicial determination that the government action based on falsity or irrelevancy is void.

The greatest danger to America's small business is the fact that agencies of the federal government are accountable to no one. These agencies have the power to take definitive, unilateral action affecting the very existence of a citizen's business, livelihood and personal freedom, yet there is no requirement that the agencies' actions be based upon truth and relevancy. Even when a citizen has proof that the agencies have distorted and ignored the truth, omitted material facts, suppressed evidence and lied, that citizen is subject to the arbitrary and capricious actions of the agency because the citizen has no right to present his or her evidence in court. The citizen has no such right because either (i) the courts must base their review solely on the allegations set forth in the agencies' files, even though such allegations in fact may be untrue or irrelevant, or (ii) the agencies' actions are not subject to judicial review because the courts have construed the law to mean the matter is wholly within the agency's discretion.

Courts have repeatedly held that judicial review of an agency's action is limited to what is on the face of the agency documents. The courts either cannot or will not look to the true facts, which can be determined only after a citizen has had an opportunity to present evidence. Rather, the courts grant validity to agencies' actions based purely on the agencies' version of events.

I was Chairman, and a part-owner of Franklin Savings Association in Ottawa, Kansas prior to its seizure by the federal government in February of 1990. The decision to seize Franklin was made by the government in a one-sided administrative proceeding which excluded all Franklin personnel and owners, a proceeding of which we had no notice, and at which we had no right to present any evidence, to be heard or to cross-examine witnesses.

We challenged the propriety of the seizure in federal district court, where we were allowed to be in attendance, to present evidence and to cross-examine witnesses. Given this opportunity, we proved that the government's decision to seize Franklin was based on "fundamental factual errors as well as material errors of interpretation and analysis"[1]. After reviewing our evidence as well as that of the government agency, the court determined that the government's actions were arbitrary, capricious and lacked any basis in fact."[2]

However, we lost on appeal, because the Tenth Circuit Court of Appeals ruled that the trial court should not have allowed us to present any evidence! The appellate court said that the only information the trial court should have reviewed was the government agency's unilaterally-created administrative record.

Limiting judicial review to the one-sided administrative record and denying citizens an opportunity to be heard is extremely dangerous, even when the government has the facts right. It is even more dangerous when, as in our case, the government agency makes fundamental and material errors of fact, interpretation and analysis, distorts and suppresses relevant evidence, and then arbitrarily and capriciously proceeds to take definitive action -- action which a citizen may not challenge with facts.

In a completely different context, the Eighth Circuit reached a conclusion similar to that of the Tenth Circuit, but with respect to the FBI's actions in wiretapping a Kansas City businessman's offices. Electronic surveillance of American citizens by the federal government is not taken lightly under our Constitution. Consequently, the FBI must establish probable cause and obtain permission from a federal judge before legally wiretapping a citizen's phones. Several years ago, the FBI sought and obtained court approval for such electronic surveillance of several Kansas City businessmen. The approval was granted based on a lengthy affidavit submitted by the FBI.

Those citizens challenged the propriety of the wiretapping. Allowed to present evidence, they proved that the affidavit which formed the basis for the permission to wiretap contained a "disturbing pattern of material

misstatements, overstatements and omissions"[3] and that the FBI's conduct rose to a high level of recklessness.

However, those citizens lost on appeal, because the Eighth Circuit Court of Appeals ruled that the trial court should not have looked at the citizen's evidence! The Appellate Court said that the "issue should turn on what was in the government's affidavits, not on what the government should have known",[4] or what the citizens could prove, if given an opportunity to present facts. Again, the court refused to look beyond the face of the government's documents, no matter how false those documents were!

In a recent case in Federal District Court in Kansas City, Kansas, the court held that a decision by the Office of Comptroller of the Currency that a man was unfit to serve as a bank officer was not judicially reviewable, because such a review would result in "simply substituting (the court's) own judgment for the expert *opinion* (emphasis added) of the agency."[5] Note the dangerous reliance upon opinion rather than fact.

In February of 1994, the United States Supreme Court held that a citizen cannot collect damages from a federal agency even when that agency violated his constitutional rights[6]. Add this sovereign immunity of federal agencies to the courts' unwillingness to look beyond the surface of government agency documents and the denial to citizens of the opportunity to be heard, and American citizens are subjected to tyrannical regulation by federal agencies with zero accountability.

As we have seen, the citizen's inability to obtain redress for governmental wrong results in citizen reaction that ranges from a cynical rejection of any governmental role in promoting the common good to violent, illegal revenge that cruelly hurts many innocent people.

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[1] Franklin Sav. Assn. v. Office of Thrift Supervision, 741 F. Supp. 1089, (1990)

[2] Franklin Sav. Assn. v. Office of Thrift Supervision, 741 F. Supp. 1089, (1990)

[3] United States of America v. Ozar, Bridges and Dreiseszun, U. S. District Court, Western District of Missouri, No.: 92-00183-02/04-CR-W-2, February 8, 1994.

[4] United States of America v. Ozar, Bridges and Dreiseszun, United States Court of Appeals for the Eighth Circuit, No. 94-2740, April 7, 1995.

[5] Hammond v Comptroller of the Currency, United States District Court, District of Kansas, No. 94-2495, March 3, 1995.

[6] FDIC v Meyer, 114 S. Ct. 996 (1994)

Submitted by Ernest M. Fleischer and Anne P. Henry

Mr. Fleischer has a masters degree in business administration from Washington University in St. Louis, Missouri, and a law degree from Harvard Law School. He also passed the certified public accountant (CPA) examination. He was a director and Chairman of the Board of Franklin Savings Asociation of Ottawa, Kansas. He currently practices tax law with the Blackwell, Sanders law firm in Kansas City, Missouri while litigating with banking regulators.

Ms. Henry has a law degree from the University of Kansas and practiced corporate law. She was a director of Overland Park Savings and Loan Association of Overland Park, Kansas. She currently cares for her children while litigating with banking regulators.

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TRUTH IN GOVERNMENT ACT

Notwithstanding anything to the contrary elsewhere provided by statute or by judicial construction thereof, any administrative action taken against any person by the United States of America or any regulatory or other entity created by it shall be based on true and relevant fact or facts with respect to such action. A person may obtain a judicial determination that such action is void by establishing that such action was not based on true and relevant fact or facts, as follows:

1. That person may file a complaint in the District Court for the District in which said person is a resident within thirty days after being advised of the administrative action. If the effect of the action was the seizure or termination of such person, any individual who had authority, immediately prior to such action, to act for such person may file and prosecute the complaint on the person's behalf within thirty days after such individual has actual knowledge of the action. A copy of the complaint shall be served upon the Attorney General of the United States.

2. Either the person filing the complaint or the Attorney General may request a trial by jury.

3. Discovery shall be permitted to the full extent provided by the Federal Rules of Civil Procedure.

4. Except as provided in Section 5 hereof, the challenged action shall be declared void only if the person filing the complaint proves by the preponderance of the evidence the untruth or irrelevancy of any of the fact or facts on which the administrative action was based.

5. If (a) the administrative action relies solely on the opinion of any government person or (b) the person filing the complaint is denied access to information on the basis of executive privilege, the challenged action shall be declared void unless the Attorney General proves by clear and convincing evidence that the administrative action was based solely on true and relevant fact or facts.

6. If either the Attorney General or a regulatory or other entity created by the United States seeks to rely in any judicial pleading in a case now pending or brought hereafter on any action taken before this Act's enactment, the filing of that pleading shall be treated under this Act in the same manner that the initial action would have been treated under this Act. If such a pleading is filed and a complaint is brought under this Act, the case in which such pleading is filed shall be stayed until a final decision is entered in the case in which a complaint is brought under this Act.

Monica Goble
President

Bill Goble
Vice President

SNACK-EZE
10941 State Ave.
Kansas City, Kansas 66111

April 26,1995

Jan Meyers
Committee on Small Business
182 Federal Building
500 State Avenue
Kansas City, Kansas

Dear Jan,

Our story is like so many Americans with a "Dream", to be self sufficient and to be our own boss. This is about my wife and I taking a need that the community had and turning it into a profitable business venture. The need was a convenience store. So we began by hiring a convenience store consultant to guide us to the proper people. One of the first steps was to have a site survey study done on the location. Site surveys will show within 10% accuracy the volume of people into our store, which indicates store sales. These types of studies are not done over night, they can take up to 60 days too complete and cost between $3,000 to $5,000. See we were so confident of our dream that we acquired the property before going to any financial institution just to show the banks how committed we were. Our site survey showed this to be a profitable venture.

As we found out very quickly getting an SBA loan is very difficult when dealing with tunnel visioned bankers. Even though we came to the table with property owned, site survey in hand, and a business consultant; some banks wanted us to put another 10-20% into the project. The majority of the banks stated they could not do the project because bank auditors would look down upon this type of business venture. Most banks were more concerned with where we worked at the time, and one even asked how we were able to make the money to purchase the property. Needless to say we did not go with that bank!

Well, after a DOZEN banks later things changed. We met Tom Overby with Avenue Area Inc Also with Gary Thomas at Guaranty Bank & Trust that is located in our own town. Once we met with Gary he didn't ask the usual questions, he just reviewed our information and said "we want to do it." Tom directed us to our first expierence using an SBA packager, but that did not turn out very well. Then Tom without being phased, directed us to another packager. This time it was the right person. In brief summary, without the "Can-Do" Attitudes of Tom Overby and Gary Thomas we would not be in business today.

We are very thankful that the goverment has the foresight to provide us with this type of program. For without the SBA 504 there would not be a SNACK-EZE convenience store that provides employment for 9 individuals. We feel people like ourselves need a financial partner to help start us on our Dream. We consider this to be a real benefit to the economy and the taxpayers for the following reasons; there was an old, decrepit building where numerous businesses had failed, there were also back taxes owed on this for several years before our purchase in excess of $13,000. Now there stands a state of the art convenience store that is meeting the community's needs. At this time we are working to add a brushless-touchless carwash to further meet the community needs .

We would like to thank you for letting us share our adventure with the you.

Sincerely,

Monica Goble
President

Sincerely,

Bill Goble
Vice President

TESTIMONY

BEFORE THE

HOUSE COMMITTEE ON SMALL BUSINESS

BY

BEN GRIFFITH, GENERAL MANAGER
CENTRAL COOPERATIVES, INC.
PLEASANT HILL, MISSOURI

PANEL FIVE -- REGULATORY BURDENS

April 27, 1995

Madame Chairperson, Representative McCarthy and members of the Committee, thank you for this opportunity to discuss with you the need for regulatory reform. I am Ben Griffith, General Manager of Central Cooperatives, Inc. of Pleasant Hill, Missouri. Central Cooperatives is a cooperative owned by 1,600 farm families. in west central Missouri. We supply agricultural inputs to our farmer-owners for both crop and livestock production. We also market our farmer-owners grain. We have sales of about $20 million and have 55 employees. I have been the General Manager for 12 years.

I also serve on the Board of Directors for Farmland Industries, the nation's largest farm supply and food marketing cooperative, headquartered in Kansas City, Missouri. Farmland is owned by over 500,000 farmers and ranchers through over 1,400 local cooperatives in 22 states. Like Central Cooperatives in Pleasant Hill, these other local cooperatives have and continue to experience extreme burdensome paperwork and regulations.

As farmer-owned agricultural businesses, we are engaged in every facet of a small business operation, this includes the handling, distribution, marketing, services and processing of our products. As a cooperative, the profits from these aspects of the business, are returned to the farmers who own us.

As agriculture is our nation's largest single industry and responsible for about 16% of the gross domestic product and nearly 1 out of 6 jobs, the regulatory impact is quite

significant and costly. This translates into lower earnings and reduced farm income for our farmer-owners.

We are committed to ensuring our employees have a safe working environment and that our consumers continue to enjoy a safe and abundant food supply. We also are devoted stewards of the land, water and air. However, it seems that in the last several years, reason and sound science have been lacking in the regulations that have been implemented by both the federal and state governments.

The current regulatory environment is characterized by too much paperwork; not enough flexibility; overlapping requirements; and often unjustified reasoning in terms of costs and benefits.

To cope with all the regulations at Central Cooperatives, we have hired a full time compliance person. This employee's job is to ensure we are in compliance with current laws and regulations and to fill out government forms. I would estimate that the cost of compliance for Central Cooperatives is well over $55,000 per year, excluding facility improvement costs.

Such examples of overregulation experienced by my cooperative as well as other local cooperatives which own the Farmland System include:

1) The Federal Clean Air Act. Under the 1990 Clean Air Act, the EPA has defined grain elevators as "major sources of emissions." This is under the belief that grain elevators operate continuously 24 hours a day, 365 days a year. Grain elevators operate only on a seasonal basis, most general during the fall harvest, thus should not be considered major sources of emissions. One member cooperative, Farmers Cooperative Association from Lawrence, Kansas has agreed to work with EPA to test for actual emissions from its grain elevators. We are hopeful that through this effort and also with some legislative relief, reason and science will be prioritized.
Also, here in my hand is the instruction booklet for one of the Clean Air Act's required forms. It is 62 pages in length. As you can imagine, reading the instructions takes a great deal of time and effort. A simpler form would be greatly appreciated. This is just an example of one burdensome form of which we must comply.

2) A Pesticide-Producing Report is required by the EPA for pesticide-producing establishments. This is understandable for manufacturers of crop protection ingredients, however, under the current EPA definition, even a company, like ours, which buys ready-to-use crop protection materials by the bulk and then repackages it for farmer-owners, is defined as a "manufacturer of pesticides" and must complete regular "producing" reports. I certainly agree that manufacturers, who work with compounds of these products are under more of a significant risk and thus should be required to complete such record-keeping. However, in purchasing these products by the bulk, we do not change the composition of the crop protection ingredients, we

only change the containers, therefore we should not be considered as a manufacturer.

3). Emergency Planning. Every year, under the Federal Emergency Planning Act and the Community Right-to-Know Act, business is responsible for completing a number of reports which are distributed to the local government, the county and the state. The objective of this practice is to assure that all entities are prepared in the case that an emergency situation should occur. It is my concern, that although it is critical that the business and the local government are prepared for any potential crisis, the paperwork to both the county and state governments is only duplicative, burdensome paperwork. I strongly believe that more should be done by both business and local officials, fire and emergency personnel, to build a "working partnership" so that the community's welfare is protected.

Madame Chairperson, these are just a few of the regulatory burdens we experience in small agri-business. We are concerned about the continued cost of compliance. We feel it is time to bring common sense into the regulatory process. Please help us by providing a regulatory climate that works for us rather than overwhelms us. We need the opportunity to work with the regulatory oversight agencies in a "partnership" would help us to achieve together the goals of protecting employees, consumers and the environment. Thank you for this opportunity to express these concerns. I will be glad to address any questions.

TESTIMONY PRESENTED BY PROFESSOR RICHARD E. HUNT, ROCKHURST COLLEGE, KANSAS CITY MISSOURI. TO THE UNITED STATES HOUSE OF REPRESENTATIVES SMALL BUSINESS COMMITTEE FIELD HEARING

OVERLAND PARK, KANSAS
APRIL 27, 1995

Introduction

I am Professor Richard Hunt of the School of Management at Rockhurst College in Kansas City, Missouri. I have been the Director of the Small Business Institute (S.B.I.)at Rockhurst since 1985. I am currently a national vice-president of the Small Business Institute Directors Association, the professional association of the almost 500 S.B.I. directors across the United States, Puerto Rico, and the Virgin Islands.

As the S.B.I. Director, I am responsible for ensuring that quality consultations are provided to clients. My specific activities include:

(1) procuring and screening most of our prospective clients, and choosing the clients
(2) preparing (or supervise the preparation of) the formal agreement between the client and my S.B.I. program
(3) instructing students in how to function as professional consultants. I often have to fill knowledge "gaps" of the students relevant to the client's problems; areas such as credit collection, site analysis, risk management, and purchasing are usually given little coverage in "mainstream" business courses, as they are usually dealt with by specialists in large businesses.
(4) supervising the ongoing consultation, preparation and presentation of the final report to the client
(5) handling the requirements associated with submission of the report to the Small Business Administration.

The Functions of the Small Business Institute Program

The Small Business Institute Program is one of the three consultation programs sponsored by the Small Business Administration (the others being SCORE and Small Business Development Centers). S.B.I. programs are housed at colleges and universities, with faculty from the business programs serving as their directors. The institution receives $500 per satisfactorily completed case, with these monies being used for reimbursement of expenses associated with the case or for other activities associated with entrepreneurial education and research at the school. The client is not charged for the service, although some schools may require clients to pay extraordinary expenses associated with the consultation, e.g., postage for a mail survey. At present, S.B.I. programs serve approximately 6000 small businesses per year.

The mission of the Small Business Institute program is to help existing businesses survive, expand, and diversify. The S.B.I. program fills a niche in the consulting mix that (1) complements and (2) is not available from either SCORE or Small Business Development Centers - that of the large scale consultation effort. SCORE typically helps the new business start-up, averaging about two hours per client. Small Business Development Centers assist both new and established small businesses to deal with problems where either the consultant, or the client using the consultant's advice, can resolve the problem. This type of consultation effort is usually of short duration, the average being under 10 hours per client.

However, many times the client faces either a problem that requires extensive time and/or knowledge that the client does not have. This could be a major effort focused toward one significant problem, e.g., developing a promotional campaign, researching a new potential market base to pursue, or conducting a site analysis for a new location for the business; often, the

consultation is comprehensive in scope, with several problems being dealt with. SBI teams provide the combination of expertise, and often as or more important, extensive time commitment, for dealing with these major projects. In fact, there are cases where the client ends up with two separate teams, the second completing that the first team could not finish. **SBI teams average almost 120 hours of work per client.**

This level of time commitment is often not feasible for the small business owner to personally make; obtaining professional assistance of this magnitude would cost the client significant monies, which many of our clients do not have available for this purpose A survey of past S.B.I. clients indicates that they perceive the value of the particular consultation they received to be worth from $2,000 to $10,000 if provided by private consultants. Without S.B.I. assistance, most of our clients would not be able to deal with these considerations, and their businesses would probably suffer. Is it any wonder that many S.B.I. case referrals come from SCORE consultants, Small Business Development Center consultants, and specialists at the Small Business Administration because they know that SBI is the one program that can deal with this scope of problem.

Small Business Institute programs often are the only providers of services, especially in rural areas where an SBA office is not nearby. Some SBI programs serve clientele in a radius of **over 100 miles** in rural areas. Most SBI programs serve as a major resource center for small business owners, with both relevant publications and computer resources available for their clients.

Small Business Institutes also serve to enhance the development of the next generation of entrepreneurs. The students gain experience about small-business ownership that no text can provide. The same resources available to small business owners are also available to the students; Many students decide to pursue entrepreneurial ventures because of their SBI experience. Another educational benefit of the SBI program is that often other faculty are involved in the consultation effort, which gives them a better perspective of the differences between large-scale businesses (which most business theory was developed to deal with), and the small business experience. As our large corporations "right-size," more of our economy will be in the hands of the small business owner. Our business students must be prepared for this shift.

<u>What is the Effectiveness of the Small Business Institute Program in Assisting the Business Community?</u>

The most recent economic impact study of the S.B.I. program found the following outcomes resulting from S.B.I consultation efforts:

1. **SBI clients' employee growth rate was 30 times the national rate (12.8% versus .42%)**
2. **In 1992, by following SBI recommendations, clients generated $79 million in additional revenue, with the combined additional taxes, social security contributions, Medicare, and sales taxes generated by the clients and their employees covering the cost of the SBI program by 20 times.**

These results suggest that Small Business Institutes more than pay for themselves. When we also factor in savings from reduced unemployment and welfare payments due to higher employment, the likelihood that many student consultants will become small business owners and employ

others, the reduction in the likelihood of SBI clients defaulting on loans, failing to pay suppliers, etc., the SBI programs generate a multiplier effect throughout the **entire economy.**

Suggested Improvements to Make the Small Business Institute Program More Effective

The Small Business Institute Directors Association is strongly dedicated to enhancing program quality, and has been actively engaged in working on the improvement of the Small Business Institute program. We have many training sessions and workshops at our annual national and regional conferences. The Small Business Institute Directors Association also conducts periodic training sessions at the regional level. We have developed a model for the periodic assessment and review of case reports prepared by the Small Business Institutes; this proposal is under consideration, and if adopted, will allow us to enhance the development of improved written reports for the clients' usage.

The Small Business Institute Directors Association seeks to develop new and innovative programs to assist the small business owner. The Small Business Institute Directors Association is working to develop a proposed management/financial review that can be used for periodic review of S.B.A. loan guarantee recipients. This review would target potential areas needing remedial actions; it would also open the possibility of a continued relationship with the client where an S.B.I. consulting team would deal with the areas of concern. We are also working to develop a program to assist clients in learning how to use the Internet.

There is a great deal of creativity and dedication to be found in the ranks of Small Business Institute directors. Compared with traditional academic activities, running a Small Business Institute is far more demanding. As a group, our basic desire is to be allowed to work with the clients with minimal unnecessary constraints. We recognize the need for oversight, but ask that this oversight be tempered with appreciation for our unique mission and timetables, e.g. a constant issue is the incompatibility of the academic calendar with the federal fiscal year.

In Conclusion

There are those who criticize our program for not serving large numbers of clients; yet, if you were to compare the **total time spent** by SBI teams with our 6000 annual clients, **it is approximately the same** as SCORE spends with its 350,000 clients. Our mission is to provide a level of assistance not available, **nor likely to be available,** from SCORE and Small Business Development Centers. Obtaining this assistance in the private sector would be beyond the means of many of our clients; Without Small Business Institute programs, many businesses would face far higher potential of failure or at least a reduced likelihood of improvement. We also provide a "hands-on" experience for the next generation of entrepreneurs.

We are hopeful that Congress will continue funding the Small Business Institute program. It is an investment in economic growth, job creation, and deficit reduction through an enhanced economy. Thank you for your allowing me to call these facts to your attention.

SAM I. JORDAN
ONE WARD PARKWAY
KANSAS CITY, MISSOURI 64112

816-932-9300

April 25, 1995

Representative Jan Meyers
Congress of the United States
House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515-6315

Re: Testimony for Congressional Hearing
April 27, 1995, Overland Park, Kansas

Madam Chairwoman:

I am licensed as a Certified Financial Planner and work primarily in the greater Kansas City area. A majority of my clientele are small businesses and small business owners, along with professionals, their practices, and senior executives of larger firms. I have an economics degree from the University of Kansas.

Most of my working life I have owned and managed small businesses and have had my current practice since 1983. My primary business is helping other small business owners with a variety of problems beyond just operating the business itself. Some of these things impact most small businesses and you could help us with them.

The item my clients usually mention first is health care. The items I find to be of primary concern are cost, adequate care (which is always defined as "the best"), and choice of providers. By definition, there will be no way to provide the above in a "one plan fits all" environment. It also follows logically that people will continue to need professional guidance in the selection of benefits appropriate for their situation.

To be sure, cost increases have moderated recently, but we still have a lot of work to do. In general, I believe we have seen proof that the market is trying to make many of it's own improvements, without having them mandated from Washington. I believe that we need to allow this process to continue.

The next item on my list is retirement planning. Most people today are very concerned about whether they will be able to live comfortably in retirement. Frankly, Social Security is of little or no value in this area to most people I advise. In fact, it is a source of utmost cynicism about the Federal Government. Most of us feel, at best, uncertain about how much benefit we can count on from Social Security. Many of my younger clients do not even want it calculated as part of their plan. They do not think it will even exist when they need it. It is my belief that solving Social Security's credibility problems would also give a significant moral boost to our Government in general.

As a result of the above, employers and employees are more interested than ever in all kinds of Qualified Retirement Plans. This makes it more unfortunate that you recently decreased the maximum amounts that can be contributed to most of these plans. You went in the wrong direction. We need to encourage people to save more for their retirement. (Incidentally, many economists would tell you that this will also help the Country in other significant areas, including the balance of trade and the value of the dollar.)

I know that there have been various proposals for improved Qualified Plans and IRA's. In general, I believe you will find broad support for any such proposals, which in fact, encourage more retirement saving. One caution though; at least one proposal I heard was promoted as retirement savings, but would allow early withdrawal for major expenses, such as college. I would agree that more flexibility will encourage more contributions, however, I am concerned that what it will really do is leave people without their intended retirement savings. If you want to encourage college savings, or other valid goals, I might very well be in favor of a plan to do that specifically for those items. However, they are not retirement savings and should not be co-mingled. I say that because of my years of experience working in the retirement plans area. I have seen too many times when people were allowed access to funds intended for retirement, and they have opted to spend the money today instead. You would be surprised at how many bass boats were once part of a retirement plan.

The next area which is a major concern is taxes and tax planning. I do not have a strong feeling at this time about some of the trial balloons on this subject. However, I can tell you that small business owners today feel unsettled about the future of taxes and uneasy about what Congress and the IRS might do to them.

The 1986 tax law is still a serious concern to many of my clients and myself, but not necessarily because of the specifics of the law. There are two serious problems which still haunt us: 1) The law was morally wrong and should have never been passed in the first place, due to it's retroactive provisions. Thousands of people made decisions based on the law of the land before 1986, but then found that the result after 1986 was not what they originally had every right to expect.

That was unfair and should have never been done. Laws passed today should impact today and the future. 2) The other serious problem here is that Congress failed to anticipate the repercussions of the law. I have no interest in specifically arguing the pros and cons of the 1986 law. However, I do think it is important for you to recognize how this law has contributed to people's distrust of Congress in general and taxation in particular.

Therefore, I believe that it is very important that you be sure that any tax laws (or any laws for that matter), meet two criteria: 1) Be morally right and fair, 2) Be well researched, so that we actually get the total result we expect, including the repercussions as well as the direct impacts.

My next area of concern is another that I know you hear often - over regulation. Every business has it's own specific horror stories. In my case, one of them is state by state licensing. My practice requires being licensed for both securities and insurance in every state where a client or prospective client resides. I am honestly hesitant to mention it in this forum because my preference, at least philosophically, is to allow and support the right of individual states to manage their own affairs. However, some of those states make it unreasonably difficult to serve their citizens. Unfortunately, most of these regulations center on processing paperwork and collecting fees. They seldom, if ever, do anything to actually help the citizens of a given state.

I would not want to see more Federal regulation of this area. However, I do know that we have in other areas written Federal laws structured to encourage the states to pass uniform laws of their own. This would help everyone involved professionally and clearly help many of our clients.

A final serious problem for the small business owner today is how to keep his business intact and pass it on to his heirs. The estate tax burden can wipe out half the value of a successful business and make it impossible for heirs to maintain ownership control.

An increase in the estate tax exemption would help everyone a little, but would not really address this problem. The real solution is a special exemption for a closely held business. It would certainly be fair to require that a majority of the business go to family members, and that they actually participate in and operate it for some stated minimum length of time. The result would be to help keep together family businesses that actually want to remain family businesses.

Thank you for this opportunity to be heard. I hope this will be helpful to you and others. If I can be of any assistance in the future, please let me know.

Best Regards,

Sam I. Jordan, CFP

dls

U.S. Small Business Administration
Kansas City Regional Office
323 W. 8th Street - Suite 307
Kansas City, Missouri 64105

Testimony of

Bruce W. Kent

Regional Administrator

SBA Region VII

Missouri-Kansas-Iowa-Nebraska

Field Hearing

Committee on Small Business

United States House of Representatives

April 27, 1995

Congresswoman Meyers, thank you for the opportunity to appear before you today and to present an overview of SBA operations in Eastern Kansas and Western Missouri. I am accompanied today by John Scott, Deputy Regional Administrator, and Dean Cotton, Acting District Director for the Kansas City district office serving Eastern Kansas and Western Missouri.

As the SBA Regional Administrator, it is a special pleasure to meet with you this morning for the purpose of discussing programs sponsored by the Small Business Administration (SBA). The support you and your staff have given to small business over the years has been greatly appreciated. Your current leadership as Chairwoman of the House Committee on Small Business reflects very positively on our Midwestern area.

As you have requested, my presentation will focus on three areas of SBA support for small business in the Eastern Kansas and Western Missouri area:

1. access to capital

2. economic development

3. advocacy issues

OVERVIEW

Missouri and Kansas are small business states. They are leaders in small business growth, job creation, innovation, and finance. Small business provides jobs for approximately 90 percent of our labor force, and accounts for almost all of the net new jobs created. Over ninety eight percent of the 131,000 firms in Missouri and the 66,000 firms in Kansas are small. It is estimated that small businesses will provide 61 percent of overall new job growth between 1995 and 2005. In most of our small cities and towns small business is the only business. Small businesses are an integral part of our economy and often go unrecognized for their contribution to our economic well-being. Our Missouri and Kansas business climate is often cited as being conducive to fast growing small and mid-sized companies.

Highly successful Kansas City area firms such as P B & J restaurants (Yas Yas, Paradise Diner, Coyote Grill), Mr. Good Cents sandwich shops, and Holiday House seasonal concepts received financial and management assistance from SBA while still classified as small businesses.

National companies such as Apple Computer, Compaq, Nike, and Federal Express also benefitted from SBA financial assistance as small businesses.

The U.S. Small Business Administration and the Kansas City SBA District Office serving Eastern Kansas and Western Missouri were established in 1953 for the purpose of providing management and financial assistance to small business owners. The Small Business Act also stipulates that SBA will provide assistance to women business owners, veterans, the handicapped, and minority small business owners.

The mission of the Kansas City SBA District Office is to help small business owners get into business or to stay in business and expand. All SBA programs are designed to provide financial or management assistance to small businesses or to assist communities with economic development.

Notably, President Clinton in 1993 specifically targeted the SBA for restructuring as a pilot performance agency under the National Performance Review (NPR). We have shifted SBA's program delivery focus to our district offices. We have seen a 12% reduction in our headquarters staff in Washington, D.C. and a 62% reduction in our 10 regional offices. Also, our Agency's actual operating budget authority decreased by 2% between fiscal years 1993 and 1994. SBA has streamlined its internal operations and customer service delivery system. During FY 1994, SBA nationwide

approved 38 percent more business loans in numbers and increased 28 percent in dollars with less operating staff. We continue to strive for improved efficiency in customer service and program delivery.

The staff of the Kansas City District Office has stabilized over the past few years at 59 employees (including the 11 employees in the Springfield Branch Office). Because of budget reductions, the district office is placing greater emphasis on the contributions of resource partners including banks, educational institutions, volunteer counselors, and state and community agencies. Notably, the Kansas City Regional Office Staff has been reduced from nearly 50 employees in 1993 to only 9 employees at the present time.

ACCESS TO CAPITAL

President Clinton is committed to easing the capital crunch for small business by expanding available private venture capital for growing companies and by reducing the amount of paperwork required to get a loan. SBA's loan guarantee programs make us a vital link to any effort to alleviate the credit crunch. SBA loans are used by lenders and small businesses for a variety of reasons: where credit is otherwise not available, for longer repayment terms, for more attractive fixed or variable rates, and for increased bank liquidity. Since SBA is not a collateral-

based lender, per se, we have not established rigid rules with respect to collateral required to secure a loan. The ultimate criteria for SBA approval is a reasonable prospect for repayment of the loan from the profitability of the business.

The SBA provides guarantees for loans that private lenders would not make on their own under similar terms and conditions. The SBA is one of the largest sources of long-term small business financing in the nation.

Financial assistance is provided to small businesses through the following programs:

7(a) Guaranty Lending. Loan funds are provided by private lenders to existing or beginning businesses. A percentage of the loan amount up to $500,000 is guaranteed by the SBA. SBA works with nearly all of the 692 banks in Eastern Kansas and Western Missouri, plus several non-bank lenders.

Microloan Program. These small loans up to $25,000 help entrepreneurs in inner-city and rural areas form small, often home-based enterprises. We have one Microloan lender in our immediate area. The Center for Business Innovation located in Kansas City, MO. serves both sides of the state line. The Microloan Program also provides technical

assistance grants to the financial intermediaries for specific counseling of micro businesses on their unique management concerns.

504\Certified Development Company. The 504 loan program provides long term, fixed rate financing at reasonable rates for businesses planning to build, acquire industrial or commercial buildings, or to buy machinery and equipment. There are fourteen CDCs in our SBA district territory. We have been successful in increasing the 504 lending activity of these Certified Development Companies.

Small Business Investment Companies. The SBIC program combines private capital with SBA-guaranteed funds. It provides venture capital for start-up and growth. There are six SBICs in the district territory. We are encouraging their increased investment activity in the area.

Disaster Assistance. Low interest loans help individuals, homeowners and businesses rebuild after a disaster.

Surety Bonds. SBA is authorized to guarantee to a qualified surety up to 90 percent of losses incurred under bid, payment or performance bonds issued to contractors on contracts valued up to $1,250,000. For the past five years we have been averaging nearly $155 million a year.

<u>One Stop Capital Shops.</u> Fifteen urban centers, nationwide, will have One-Stop Capital Shops which combine management, technical and financial information for small businesses in one convenient location. The Kansas City metro area has been designated for a 1995 opening within the boundaries of the Kansas City Enhanced Enterprise Community.

<u>LowDoc Lending.</u> Recent SBA innovations include the LowDoc loan program, which sharply reduces the paperwork burden imposed on lenders by allowing a one-page SBA application for loans of $100,000 or less. The program was piloted in late 1993 and was introduced nation-wide in July, 1994. The approval process focuses on character, credit and business experience. Loans can be made for an existing business, a business purchase or a business start-up. The application form for loans under $50,000 consists of a single page. Applications for loans from $50,000 to $100,000 include the 1-page short form application plus the applicant's income tax returns for the previous three years and personal financial statements.

During the first half of the fiscal year (October 1, 1994 to March 31, 1995) the Kansas City District Office approved 396 LowDoc loans for $20 million. The average loan size was $50,000 and the smallest loan approved was for $1,500. Rural loans were 40% of the total and 60% were located in

urban areas. This program has been widely accepted in the district with 123 lenders submitting applications and another 70 trained and certified for future participation.

FA$TRAK. To increase the availability of SBA financial assistance to those small firms wanting to borrow less than $100,000, selected lenders will be given the authority to approve, service and liquidate loans up to $100,000 with a maximum guaranty of 50%. Boatmen's National Bank was one of 18 lenders nationwide that will participate in the pilot program.

District Loan Portfolio: March 31, 1995. There are 4,592 loans worth $473.7 million in the loan portfolio. This includes 322 community development loans and 835 disaster loans. It is notable that 90.7% of the loans and 91.6% of the dollars are current.

Loan Activity FY 1994: The Kansas City District Office approved nearly 1057 7(a) loans during FY 1994 for $160.4 million. The average loan size was $152,000. Loans were approved in 80 of the district's 88 counties.

Loan Approvals: October 1, 1994 to March 31, 1995. Loan volume for the first six months of the fiscal year increased from 459 loans worth $75.3 million in FY 1994 to 755 loans worth $93.6

million in FY 1995--an increase of 64.5% in numbers of loans and 24.3% in dollars of loans.

In summary, an economic partnership exists between SBA and the national banking community. We help banks with their small business clients to become more competitive and create jobs.

We have redesigned our financial assistance tools to meet customer needs more effectively and make them more user friendly. The unprecedented loan production numbers for FY 1994 show that in addition to becoming a more responsive, cost-effective and customer-oriented agency, the SBA is having a larger and more focused impact on economic growth than ever before.

ECONOMIC DEVELOPMENT

SBA has developed an extensive national network of resource partners to stimulate economic development. They provide much-needed business education and training to small business owners. This training is often critical to the success of small business owners who cannot afford the costs of private consultants. These programs often make the difference between success and failure of a small business.

Some of the economic development support programs provided through the Kansas City SBA District Office are:

- The Service Corps of Retired Executives (SCORE) offers counseling services through eight area chapters in Eastern Kansas and Western Missouri. These volunteers are retired business men and women who give back to this nation their accumulated knowledge and expertise through community service. There are approximately 165 volunteers in the program providing about 2,200 management counseling cases each year. The SCORE program costs the government approximately $22,000 in Eastern Kansas and Western Missouri. The national program benefits from the contributions of 12,000 SCORE volunteers at a cost of less than $3 million per year.

- The Small Business Development Center (SBDC) program operates at fourteen sites in the SBA district territory. These federal-state partnerships offer business development counseling, training, research, and loan packaging. Local SBDCs completed over 4,000 management cases in 1994. The FY 1995 federal budget for SBDCs in our two states is $2,309,000. The states and host universities provide a similar contribution of funds and in-kind services to the annual cooperative agreement.

- Business Information Centers are opening in cities across the nation to provide more

concentrated technical information on owning and operating a small business via computer data bases, CD-ROM and technical manuals on a wide variety of business types in the retail, wholesale, and service trades. A center was opened in the Kansas City district office in March, 1994.

ADVOCACY

Forty-two years ago, the Congress and President Eisenhower recognized the importance of small business and established the SBA to help small companies get started, expand and create jobs.

As a part of this process, SBA has been a vocal representative of small business interests. Supporting and sustaining this entrepreneurial spirit creates jobs for our nation's citizens and strengthens the overall economy of our nation.

The SBA has a strong advocacy voice throughout the Government for small business. The Office of Advocacy represents the interests of small businesses by providing public information and outreach, by maintaining links to local communities through its Regional Advocates Program, and by working with state officials to develop policy and legislation to shape ideal

environments for small businesses. While we have specific advocacy functions, such as our Government Contracting assistance programs and the Small Business Innovation and Research Program, true advocacy must go beyond looking at leveraging SBA programs.

Accordingly, we are spearheading this Administration's efforts to reduce the regulatory burdens on small business. During the White House Conferences on Small Business held in Kansas in August, 1994 and in Missouri in February, 1995, the participant recommendations suggested that:

- Congress, through the small business committees, should increase the level of funding in the 7(a) program;

- Quality business education and training through existing resource providers should be reinforced by utilizing current advances in information technology; and

- Advocacy should be augmented by decreasing the regulatory and paperwork burdens and that the SBA's advocacy efforts for opening doors to federal contract opportunities be further enhanced.

The SBA is already working to fulfill all of these goals.

CONCLUSION

In conclusion, the SBA plays an important national role as a catalyst and partner in business and economic development. It continues to be a progressive agent for economic stimulus.

Our vision for SBA is to maximize the taxpayer dollar in rendering service to small business. The Agency provides the government's most flexible and innovative economic development programs and opportunities for our nation's small businesses.

I thank you again for your commitment to small business and for allowing me to appear at your field hearing today. We look forward in the coming months to working with you and your committee staff to restructure the Agency.

I will be glad to answer any questions.

THE CENTER FOR
BUSINESS INNOVATION

Testimony of

Patti J. Klinko
Chief Financial Officer
Center for Business Innovation

Presented to

Committee on Small Business
United States House of Representatives

April 27, 1995

Chairwoman Meyers and Congresswoman McCarthy,

Thank you for allowing me to appear before you today to present testimony related to the SBA Microloan and SSBIC programs.

I am the Chief Financial Officer of the Center for Business Innovation (CBI) in Kansas City, Missouri. CBI is an intermediary for the SBA's Microloan Program. CBI became a Microloan intermediary for the entire State of Missouri in 1993, with the first loan made in July of that year. In January 1994, CBI became a Microloan intermediary for the counties of Johnson, Wyandotte, Leavenworth, and Douglas in the State of Kansas.

The Microloan program fills an important capital gap for small businesses that cannot receive traditional funding from banks either due to the size of the loan they are seeking or due to their financial position. The Microloan program can provide loans from as low as $500 up to $25,000. Instead of analyzing a loan using traditional banking ratios, CBI looks at a business' viability in the community and its ability to repay the loan. Therefore, through this program, many small businesses have been created or sustained that would otherwise not have been given a chance to survive.

Since July 1993, CBI has loaned money to 63 small businesses in Kansas and Missouri. These businesses employ a combined total of over 200 people; people who might not otherwise have jobs if their employer did not have the opportunity to get a Microloan. In total, CBI has loaned out over $1,000,000 to small businesses in Kansas and Missouri through the Microloan program.

An important component of the Microloan program that contributes to its success is the technical assistance that accompanies each loan. The SBA provides Microloan intermediaries with technical assistance grants, which allows us to assist Microloan borrowers in being successful. Many small business owners lack not only the management skills, but also the manpower required to fulfill all of the tasks necessary to grow their businesses.

Through the Microloan technical assistance grant, CBI is able to work with these borrowers one on one in the areas of management, marketing, human resources, finance and accounting. CBI has assisted Microloan borrowers in projects such as setting up

an accounting system, hiring personnel, preparing cash flow projections, marketing via a direct mail campaign, and procuring sales contracts. CBI has also worked with the Metropolitan Community Colleges in Kansas City to develop educational courses for the Microloan borrowers covering topics such as cash management and marketing.

The results of this component of the Microloan program is evident in the fact that CBI has experienced less than a 1% loss rate to date on loans made, even though SBA requires that we maintain a 15% loan loss reserve to cover loan portfolio losses. This means that these small businesses are surviving, making their loan payments, and contributing to the overall economy through tax revenues and job creation.

It is our understanding that Congress is reviewing the success of the SBA Microloan program and has considered eliminating the technical assistance grant portion of the program. CBI feels that this action would be detrimental to the success of the Microloan program, and in effect would reduce the survival rate of small businesses in Kansas and Missouri who need this assistance.

In addition to being a Microloan intermediary, CBI also has a $3,000,000 seed capital fund for socially and economically disadvantaged small business owners in the Greater Kansas City Metropolitan Area, which includes counties in both Kansas and Missouri. This fund was made possible through a grant from the Center for Entrepreneurial Leadership of the Ewing Marion Kauffman Foundation.

Applications to receive investments from the seed capital fund were first made available at an informational meeting CBI held on Saturday, January 7, 1995. Although this meeting was not heavily advertised, over 1,000 people attended. Over the next 3 months, we have received almost 200 completed applications. This demonstrates the pent-up demand for capital in this targeted segment of the community. A $3,000,000 seed capital fund cannot begin to satisfy this demand. Therefore, CBI, through its subsidiary, Capital for Entrepreneurs, Inc., applied for an SSBIC license from the SBA, in order to leverage these funds. If the license is approved, the fund will be increased to a $9,000,000 level.

In an article that appeared in the Wall Street Journal on April 21, 1995, the SBA was faulted for failures of SSBIC's in the past. Those failures occurred, though, when the SBA was providing capital to SSBIC's in the form of debt. This made it extremely

difficult for SSBIC's to fully invest in small businesses, wait for 5 - 7 years to harvest those investments, and still make debt service payments to the SBA.

Under the new regulations for SSBIC's, the capital provided by the SBA can now be in the form of nonvoting preferred stock, with a 15 year mandatory redemption, and a 4% cumulative dividend, payable no later than the redemption date. This allows the SSBIC the time it needs to harvest its investments and reap a healthy return on those investments, before repayment to the SBA is required. Thus, the SSBIC can grow its investment pool, pay its operating expenses, and meet its obligations to the SBA.

Currently, there are no SSBIC's in this region of the country. As I previously indicated, there is a great demand for seed capital for socially and economically disadvantaged small businesses in this area. Therefore, CBI believes the SSBIC program should continue to be funded.

Respectfully submitted,

Patti J. Klinko

Patti J. Klinko

Minority Entrepreneurship Program Faulted in Study

SSBIC Shortcomings Blamed on Inadequate Resources and SBA Management

By UDAYAN GUPTA
Staff Reporter of THE WALL STREET JOURNAL

A major government program to foster minority entrepreneurship has been a bust, a new study says. It blamed the program's design and the Small Business Administration's management.

The study is the first major performance analysis of the government's SSBIC program, which supports so-called specialized small-business investment companies, privately owned venture capital funds that invest in minority-owned concerns. Timothy Bates, a professor at Detroit's Wayne State University, conducted the study for the SBA.

Since the program was started in 1969, SSBICs have received more than $1.5 billion in private and government funds and have helped to finance more than 19,000 minority-owned businesses. For every dollar that an SSBIC invests, the government provides up to $4 in loans. Though woman-owned businesses are also eligible, few have received funding through the program.

The study comes at a time when minority business-assistance efforts are coming under increased attack. Ironically, it also comes after some of the bigger minority venture funds have reported superior results and attracted unprecedented sums of institutional capital. But the study indicates that the program's main problems involve the dozens of smaller investment companies.

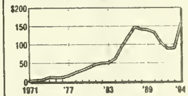
Report's Conclusions

According to the report:

- Most SSBICs are losing money.
- Most of the SSBICs invest in small companies in traditional lines of business that possess little job-creation potential. In 1993, for example, more than half of the SSBIC investments were in restaurants, food stores and taxicab operations.
- Many SSBICs have more money in cash assets such as certificates of deposits than in equity investments in minority-owned businesses.
- After years of operating unprofitably, many SSBICs go out of business. Most commonly, the SBA forces them into liquidation. Of the 141 SSBICs chartered by the SBA during the first 10 years of the program's existence, only 32 are still in operation.

Investing in Minorities

Financing provided to minority-owned businesses through the Specialized Small Business Investment Companies program, in millions



Note: Figures for fiscal years ended March 31
Source: Small Business Administration

The SSBICs "have most commonly failed to function as viable sources of capital for the minority community," the report concludes. They have been severely hampered by a lack of capital, and by government regulations that excessively restrict investments, the study charges.

Many funds chartered by the SBA as SSBICs have inadequate financial resources and are unlikely to engage the services of a full-time professional manager, the report further contends. "Creating viable SSBICs apparently hasn't been a concern of the SBA through much of the program's 26-year history," it adds.

Other observers also have been critical. The SSBIC program has been hurt by "critical structural issues that the Clinton administration still refuses to address," says JoAnn Price, managing partner of Fairview Capital Partners Inc., a Farmington, Conn., investment firm that invests in minority venture-capital funds. "But it . . . still is the only program that has consistently provided equity capital to minorities and the only training ground for minority venture capitalists," she adds.

A Few Do Well

Indeed, a few SSBICs have been as successful as mainstream venture capital funds. Investment companies such as TSG Ventures, Syncom Capital and Opportunity Capital all have reported 10-year returns averaging more than 23% a year.

Since the beginning of 1994, such large funds, as well as funds outside the SSBIC program, have attracted over $600 million in private capital to invest in minority-owned and women-owned businesses, says Private Equity Analyst, a Wellesley, Mass., newsletter. "Institutions heavily invested in private equity funds are now looking to some of the newer niches that aren't overcapitalized," says Steven Galante, publisher of the newsletter.

But if a few big investment companies are doing well, the SSBIC program's design has encouraged the proliferation of small funds which have special problems. "Below a certain scale of operations, the viability of SSBICs as providers" of long-term capital is "dubious," the study says. In 1990, for example, SSBICs with total assets of less than $2 million reported average operating losses of $16,300 and capital losses of $7,700. A similar pattern of losses and capital erosion also existed in previous years.

Hampered by Undercapitalization

Indeed, between 1987 and 1990, loan losses and labor costs absorbed nearly two-thirds of the total revenues of the small SSBICs. These funds have labor costs "way out of line relative to the costs reported by larger SSBICs," says the report. "Small institutions cannot achieve efficiency in the routine aspects of operating an investment company," the report contends.

Persistent undercapitalization has narrowed the investment focus of most small SSBICs. To achieve sufficient diversification, investments "must be very small, which limits the types of firms most SSBICs can serve," the report says.

"The failure to attract private capital has plagued the industry," says Bruce Gamble, president of the National Association of Investment Companies, the SSBIC industry trade group in Washington. Given the very risky nature of investing in minority-owned businesses, many of which have been in inner cities, there haven't been sufficient incentives to private capital. While solutions have been found to encourage private investments into mainstream venture capital funds, "the need to come up with new incentives for SSBICs is more urgent," Mr. Gamble says. The problem is further exacerbated by the failure of Congress to appropriate more funds for the program, he adds.

The SBA says it recognizes the problems in the SSBIC program and is determined to cope with them. "The construction of the program has to be rethought," says Robert Stillman, associate administrator for investment at the SBA. Very few investment managers are applying to operate new SSBICs. The SBA hasn't licensed a new SSBIC since the beginning of 1993, Mr. Stillman says.

In an attempt to come up with recommendations, the SBA earlier this year appointed an independent advisory council. But the committee has met only once.

Among the recommendations being discussed is splitting the program into two parts. The SSBICs that are mostly lenders would be part of a guaranteed loan program. They would be allowed to sell the guaranteed portions of their loans in a secondary market, giving these funds more liquidity, and make more capital available to invest.

The bigger SSBICs that make more equity investments could be part of a reorganized group that would retain the current investment incentives but have more operating flexibility.

TESTIMONY OF

AL MARTIN, President
SMALL BUSINESS COUNCIL OF AMERICA, INC. (SBCA)
and
Chair, Tax Committee, Kansas Delegation to
WHITE HOUSE CONFERENCE ON SMALL BUSINESS

ON
TAX AND EMPLOYEE BENEFITS POLICY

Before the

COMMITTEE ON SMALL BUSINESS
THE HOUSE OF REPRESENTATIVES, 104th CONGRESS
CONGRESS OF THE UNITED STATES
APRIL 27, 1995
at
Johnson County Community College
Overland Park, Kansas

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STATEMENT OF AL MARTIN ON BEHALF OF THE SMALL BUSINESS COUNCIL OF AMERICA, INC. and as Tax Chair, Kansas Delegation WHITE HOUSE CONFERENCE ON SMALL BUSINESS

BEFORE THE COMMITTEE ON SMALL BUSINESS OF THE UNITED STATES HOUSE OF REPRESENTATIVES

ON

TAX AND REGULATORY STRUCTURE TO MAXIMIZE ECONOMIC GROWTH AND DEVELOPMENT

April 27, 1995

Madame Chair, I am Al Martin, President of the Small Business Council of America, Inc. ("SBCA"). I am also a practicing attorney in Kansas City specializing in tax, business and pension law. Much of my work is spent with family business as well as privately-owned, closely-held businesses. As President of the SBCA, I am pleased to present our views on our tax and regulatory structure, and how it can be restructured to maximize economic growth and development.

I am also Tax Chair of the Kansas Delegation to the White House Conference on Small Business, and have enclosed the Kansas Delegations' recent federal tax recommendations.

SBCA is a national nonprofit organization which represents the interests of privately-held and family-owned businesses on federal tax, health care and employee benefit matters. The SBCA, through its members, represents well over 20,000 enterprises in retail, manufacturing and service industries, which enterprises represent or sponsor over two hundred thousand qualified retirement and welfare plans.

In accepting your invitation, we believe the SBCA's testimony can provide important insight on how different proposals in the Contract will benefit of the small business community. In addition, I will address the need for a common sense, dynamic view of the economic effect of government tax policy.

The Small Business Committee should focus on simplifying the tax and regulatory structure that is strangling economic growth and opportunity. We believe your Committee and Congress should have a special interest in focusing on the need to create a tax system geared to maximizing economic growth, business development, and self-sufficiency.

OUR PROPOSALS

The SBCA and the Kansas Delegation to the White House Conference on Small Business support the following:

1. Congress should stimulate capital formation by reducing the federal estate tax. Specifically, the estate, gift and generation-skipping taxes should be reformed to increase the estate tax exemption amount (technically the credit-equivalent amount) from $600,000 to $1,000,000; tax trusts on their taxable income at the same rates at the same amounts as for individuals; and make retirement plan assets of up to $1.5 million per person exempt from estate tax.

2. Congress should reform IRAs and pensions to better serve retirement purposes and alleviate discrimination against family business by allowing (1) nonworking spouses to deduct an IRA up to $2000/year; (2) deleting the 15% Excise Tax of Internal Revenue Code §4980A; (3) eliminating the Top-Heavy Rules under Code §416; (4) repealing the family aggregation rules of Code §414(q)(6) and §401(a)(17); (5) deleting the $150,000 Compensation Ceiling; (6) adopting the design based 401(k) safe harbors of former H.R. 13, which has previously been passed by both House and Senate; (7) modifying Code §401(a)(26) to apply only to defined benefit plans; (8) repealing the full funding limitation of Code §412(c)(7); and (9) stopping the IRS practice of discriminatorily auditing small plans of small business.

3. Congress should reform the definition of independent contractor and employee to eliminate litigation and confusion. Specifically, it should be an absolute defense to an IRS audit by the employee that the independent contractor paid all taxes; which it in good faith believed to be owing, and no penalty should be imposed on the employer for failing to withhold and pay over payroll/income taxes in such event.

4. Congress should stimulate capital formation by reducing the maximum capital gains tax to create an exclusion of 50% of taxable gains from taxable income.

5. Congress should eliminate discrimination in the Internal Revenue Code, to-wit: Amend Code §101(a)(2)(B) to allow a transfer of life insurance to a shareholder or officer of a corporation in which the insured is a shareholder or officer; amend Code §162 to allow health insurance to be deducted as a business expense by all entities for all employees; eliminate all special rules for personal service corporations in §11(b)(2), §269A,

§280(H), §441(i), §444, §469(j)(2), and §535(c)(2), except the required accounting rule of §448.

6. Congress should enact legislation restricting tax-exempt entities engaging in commercial activities that are in direct competition with for-profit small business.

7. Congress should provide for a panel of industry experts to advise it on needed technical corrections to the Internal Revenue Code.

In addition, the SBCA also supports:

1. Allow employee stock ownership plans to be established by subchapter S corporations. Presently they are not allowed because the employee stock ownership plan is not a "qualifying shareholder" under Internal Revenue Code Sections 1361, et seq.

2. The House Small Business Committee should consider the impact of all proposed tax changes affecting small business and its conclusions should be reviewed by the House Ways & Means Committee before the House Ways & Means Committee takes action on tax and benefits legislation.

ENTITLEMENTS, THE DEFICIT, AND A SECURE FUTURE

1. **Entitlement Growth** - The bipartisan commission on Entitlement and Tax Reform, appointed by President Clinton, and headed by Senators Bob Kerrey (D-Neb) and John Danforth (R-Mo) issued its report in December 1994. Our country has major problems to which Congress must immediately turn its attention:

- **Entitlements will soon be 70% of our federal budget.** In 1963 we spent 71% of every federal dollar for education, technology, roads, bridges, defense and other productive programs. Now we are looking at spending that much in the year 2000 on interest on the federal debt and entitlements alone. Something has got to change!

The six largest entitlements are as follows:

Federal programs	Projected cost in 1994
Social Security	$317 billion
Medicare	158 billion
Medicaid	84 billion
Other Retirement/Disability	72 billion
Unemployment Compensation	27 billion

Food Stamps	26 billion

2. **The Role of the Unfunded Public Pension Plans**. Private pension contributions have been restricted and discouraged by Congress in the 1980s because of its voracious need for more tax revenue. The potential unfunded liability, if all companies in the USA were to quit funding their plans, would be **38 billion dollars.**

But the unfunded liability benefits promised for **federal pensions as of the last available statistics, was over 1.1 trillion dollars -- nearly forty times the 38 billion of the private sector.** This is because these pensions are not funded.

Just like Social Security, the federal government pays as it goes. There is no separate trust fund set aside for federal pensions. They are funded by promises and can only be paid by our taxes on a "pay as you go" basis. The largest components of the unfunded federal pension deficit are as follows:

Military Retirement System	513 billion
Civil Service Retirement System	600 billion
Federal Employees Retirement	5 billion
TOTAL	$1.1 trillion

The federal unfunded liability is not potential, as in the private sector, but actual.

In addition, public employees have a pension indexed for inflation, with cost of living adjustments ("COLAS"), more generous benefits, and earlier retirement ages than the private sector. Thus, with the leveraging of fact of higher pay, plus more generous formulas, which are index for inflation, the average public employee is in much better shape than the average private employee. In addition, they have a lower retirement age (55) than many private pensions.

3. **The Federal Deficit -- Recent Events have Lulled Us Into a False Sense of Security**. The Congressional Budget Office projections show the deficit hitting a seven year low of $166 billion in fiscal year 1996. However, its CBO estimates show a deficit growing quickly and reaching a record high of $324 billion by the year 2003. Remember, the aggregate national deficit has increased from $.5 trillion in the late 1970s to $3 trillion today, and could be $6 trillion by the year 2000.

4. **The Real Federal Deficit**. If the federal government had to account for pensions the same way it requires private business to do, the formal U.S. debt would increase 32% from $4.7

trillion to $6.2 trillion. Social Security funds are loaned to the U.S. and mask another $60 billion or so in the deficit.

OUR RETIREMENT SYSTEM, ERISA, NEEDS TO BE REPAIRED AND RESTORED TO ITS FORMER HEALTH

Our pension system when under budget pressure has begun to collapse. We have had change after change, which has really been more and more taxes in the guise of fairness and improving the system. The late '80s and the 1990s showed that nothing based on tax incentives will ever work well within an unmanageable deficit. ERISA was no exception, particularly without strong and knowledgeable backers in the legislative and executive branches or elsewhere.

The other bad thing that's happened post-1974, when ERISA was enacted, has been Congressional staff takeover in the wake of over-complexity. ERISA was not a simple bill, but it was understood when it passed in 1974. Since then, Title I of ERISA and its corollary sections in the Internal Revenue Code have become so complex that hardly anybody understands it. The result has been an abdication by members of their true legislative duty in favor of staff control. The result is an irresistible engine of complexity compounding itself to the detriment of retirement income security.

In the 1980s and '90s, therefore, we have ERISA amendment after amendment purporting to make the system fairer when in fact these amendments simply make the system less attractive to plan sponsors, thereby deterring plan establishment and growth. These amendments have really been aimed at raising taxes and have exacerbated economic class distinctions. All 5% or more owners and those making over $50,000 are bad people!

Many of the things that have been done have occurred in the name of non-discrimination. If you're against them, you're then branded as being for discrimination. Well, that simply is not true. The change in the 415 limits, from $45,000 in 1982 to $30,000 in 1984, the change in the total compensation that can be taken into consideration ($200,000 for "top-heavy" plans in 1984 and then again $150,000 in 1993, despite inflation), a whole host of these changes have been detrimental to participants as well as plan sponsors and administrators.

But the complexity of ERISA and the Tax Code makes it rather difficult to generate the kind of interest that would get the general public or substantial elements speaking out. Private pension plans cover about half of full-time workers. When you look at that overall coverage more closely you will find that the reason 50 percent are covered at this point is because of the rapid growth

of the 401(k) plans. From 1983 to 1993, coverage under the more traditional other types of plans actually decreased from 47 percent to 33 percent.

Why has this erosion occurred? Because pensions have been viewed as fair game for meeting revenue needs. Elitist tax economists, principally Stanley Surrey, and government and IRS bureaucrats have succeeded in fixing the pension law with the label "tax expenditure." This has provided the justification for continual retinkering of the rules to implement a host of policies that are constantly changing. This onslaught has left the pension system defenseless against the demands of the constant budget deficits of the past 15 years that have seriously damaged the pension system.

Is it any wonder that we have a pension law today that is largely dysfunctional? In the words of the New York State Bar Pension Simplification Committee, ERISA is now, after all these changes, a hodgepodge of conflicting goals, policies and overburdens. We had a remarkable pension system in this country. It began after World War II and it grew to the presence that it enjoyed until the turnaround that began in the eighties when we got these excessive series of law changes: ERTA, TEFRA, DEFRA, REA, OBRA, TRA86, etc.

The key social goals, funding, vesting and benefit accrual, have been well met under ERISA. But from the perspective of the employers who want to provide good benefits, the question is whether the cost is worth playing the game.

I often have the sense representing employers that the private pension system is going to collapse of its own weight while we're waiting for simplification. Employers are now flabbergasted and discouraged about the amount of information that is required, and the number of hoops that they have to jump through, to do a "simple" submission to the IRS to qualify a plan.

My experience is that most employers really want to provide good benefits, but the cost of compliance both in fees and in employer time can outweigh the benefit. Since ERISA, there have been nearly thirty new laws affecting plans, an average of nearly one every nine months. This one every nine months rubric has been around for a long time.

The IRS has now actively begun to disqualify plans. The regulators, both the IRS as well as the Labor Department, who now come in and audit plans and say, well for the last ten years you should have been doing it this way, never mind that we didn't tell you, you should have known. Your plan is now disqualified and you

owe all of it in taxes. If you think this is not true, look at the 1994 case of John U. Fazi, and the other adverse developments not reported in that case.

I know from my own experience that as the amount that can be provided through the qualified plan has decreased in the percentage of retirement income for the top officers through the qualified plan has become such a small percentage that their interest in improving benefits in the qualified plan has disappeared, that their interest is really in the nonqualifying plan and the qualified plan is something that is a purely a cost item that ought to be minimized. I think it is very bad policy to divorce the leadership of business from the benefits of the qualified plan.

NEEDLESS COMPLEXITY AND CHANGE IN THE PRIVATE RETIREMENT SYSTEM AND ITS NEGATIVE IMPACT ON PENSION COVERAGE

Fifteen years ago, when the voluntary retirement system was stable and the rules were clear, the system was flourishing and retirement plans were being established by privately held companies in record numbers.

One of the outstanding tax practitioners in the country, Mr. Harold Apolinsky, from Birmingham, Alabama, wrote to Mr. Kenneth Gideon when he was Assistant Secretary of Tax Policy at the Treasury Department, "You may recall that Wilbur Mills insisted that there be 15 years between major tax laws. We had the 1939 Code, the 1954 Code, and what we thought (erroneously by today's standards) was a major tax bill in 1969. Such a time frame allows the taxpayers, their advisors, and those of you in tax administration to become comfortable with the system. It is constant change which is the problem."

Mr. Apolinsky has determined that there have been over 10,000 changes to the Internal Revenue Code sections since 1980. The frequency and complexity of these changes in the retirement plan area is greatly exacerbated by IRS regulations which can be any or all of the following; untimely, effective retroactively, or difficult to comprehend even by specialists. Often needed regulatory guidance is not issued until after a qualified retirement plan has had to comply with the law change. In some cases, the change is so incomprehensible that IRS basically suspends operation of the law until it can figure out what to do with the change - for example, the changes made to the integration rules by Congress.

We know from tax advisors from all over the country that retirement plans for small businesses were being established in record numbers. Stable small businesses were adopting plans because it became evident to the owners of these businesses that a qualified retirement plan was the best way to save for retirement and to retain good staff employees. Costs of the plan were in a good balance with the benefits to be derived from the plans - so plans were being adopted.

Despite this, the focus of law, regulation and IRS and DOL enforcement has shifted from providing a tax based incentive to serve a broad public policy to viewing qualified plans as a tax loophole which needs to be shut down to avoid exploitation by unscrupulous employers. The sheer volume of statutory and regulatory material has exploded. When I graduated from law school, the Internal Revenue Code, the paperbound version, was one volume and the regulations were two volumes. The number of pages of statute governing pensions totaled sixty-five, whereas, in 1992 there were 699 pages. Regulations in the same time period have expanded from 306 pages to 3,627 pages.

If the law returned the system to its prior relative simplicity, reliability and clarity, the voluntary private retirement system would become rejuvenated. The second step in restoring the system to its prior viability would be to restore retirement benefits to the level they were at prior to the onslaught of legislation.

CONCLUSION

The private retirement system has been in a decline for the last several years. This is the result of (1) additional and largely unnecessary costs and complexity injected into the private retirement system over the last decade, (2) a reduction of benefits, and (3) a harsh, regulatory environment. the IRS is now aggressively disqualifying small plans. It is not uncommon for the complex ever changing rules to be used as a "gotcha"--you missed a detail--so we're disqualifying your plan. It is not clear how much the system has been harmed by the cutback in benefits as compared to the increased costs of complexity. It is clear, however, that the needless complexity is a real threat to the continued health of our private retirement system and that the system can be simplified without adversely impacting revenue or the underlying policy of the changes.

Voluntary design based safe harbors are the most effective way of truly simplifying the complexity inherent in the retirement plan system. This is the solution advanced in the §401(k) area. The §401(k) plan is an exceptionally popular plan

with both employees and employers. The Tax Simplification Bill set forth two design based voluntary safe harbors in the §401(k) area. These safe harbors promote this popularity by making the administration easier. A company can elect to fall within a safe harbor or not. This is a novel and sound approach to simplification which should be utilized in other complex areas of the retirement plan system.

The voluntary retirement system was healthy and growing before the onslaught of constant changes in the law and regulations. New plans were being established by small businesses in record numbers. Simplification of the underlying system, particularly by the use of voluntary safe harbors, will go a long way towards reviving the system.

Last year, the National Institute on Aging (NIA) reported that millions of Americans in their 50s face an uncertain future, lacking health insurance or pensions, or fearing that they will lose the benefits they do have. The survey by NIA found that a substantial number of people -- especially minorities -- lack pension coverage that may rob them of a satisfying and successful retirement.

The findings, while shocking, do not come as a surprise to benefits professionals. Most of us are aware that in recent years the focus of America's retirement and employee benefits policy has shifted dramatically for the worse. Those of us concerned about the viability of the private benefits system know all too well that the budget deficit and not retirement and savings objectives, has driven almost all debate on important national issues, including retirement matters.

In March of 1993, the American Academy of Actuaries reported that since 1988 at least 50,000 of America's small business firms -- those with less than 25 employees -- have eliminated their defined benefit pension plans leaving their workers without retirement plans. In our law firm, 80% of our clients with defined benefit plans have terminated them. An equal number of small firms, according to the Academy, chose to replace their defined benefit plan with a defined contribution plan. The Academy's data is confirmed by the U.S. Department of Labor which reported in its initial Private Pension Bulletin that defined benefit plans had decreased by 24% between 1983 and 1989. The DOL reported that the trend shows that we are no longer seeing a growth in the number of plans nor is the percentage of the workforce with pension plans growing. Indeed, while the workforce grows, the percentage of covered workers falls (albeit, there was a small increase in 1992).

This drop in pension plan coverage could not come at a worse time. The graying of America, and the burden that it will place on future generations, can not be ignored. The American Council of Life Insurance reports that from 1990 to 2025, the percentage of Americans over 65 years of age will increase by 49%. This jump in our elderly population signals potentially critical problems for Social Security, Medicare and our Nation's programs designed to serve the aged.

While we must assure our citizens that Social Security and Medicare will remain strong and stable, private pensions, savings and private sources for retiree health care will have to play a more significant role for tomorrow's retirees. The savings that will accumulate for meeting this need will contribute to the pool of investible capital that will provide the economic growth needed to finance the growing burdens of Social Security and Medicare. But such savings will not be forthcoming in the face of the kind of policy directions reflected by the Administration proposal.

While many factors can be cited for the crisis, two stand out -- DIMINISHING TAX INCENTIVES and INCREASED COSTS DUE TO OVERREGULATION. The loss of tax incentives appears to be directly related to our nation's budget deficit problems. Reducing the tax incentives for pensions is destructive of our goal of having an adequate retirement savings system.

Frequently, the case for reducing the incentive is premised on dubious assumptions that the current incentives are not functioning as expected. Often times, advocates for reducing tax incentives employ the politics of envy. Both the Association of Private Pension Plans and the Employee Benefits Research Institute have recently published treatises that punch holes in the logic of those advocating reduced tax incentives for retirement savings. While defending current tax incentives is commendable, what's really needed are new tax incentives to overcome the losses of the past decade.

The other factor that is contributing to the stagnation of private pension and welfare plans is the unrelenting drive to suffocate our private benefits system with questionable costs due to increased burdens imposed by regulation. In the above mentioned American Academy of Actuaries study the reason most given for abandoning a pension was the growing burden to comply with government regulation. Nearly 60% of small employers in the Academy cited the cost of compliance as the primary reason for their decision to terminate a defined benefit plan. Almost 30% of large firms cited this factor also.

Despite the increasing evidence that we are drowning employers in regulations, the push for more regulations and laws appears unrelenting. Enactment of the reforms we have proposed is vital to help our nation's working class have a decent retirement.

Statement of Clyde McQueen, President of the Full Employment Council -- to the House Small Business Committee

Good Afternoon:

My name is Clyde McQueen, I am President of the Full Employment Council of Kansas City Missouri. FEC is a private non-profit organization whose objective is to provide job training that leads to employment for the economically disadvantaged, unemployed, dislocated workers, and youth within the city of Kansas City Missouri and the surrounding area of Jackson, Cass, Clay, Platte and Ray counties. FEC has a budget of approximately $15 million dollars, and receives funds from the Federal Government through the US department of Labor, City of Kansas City Missouri, State of Missouri and local contributions from corporate and Foundation funders. The Full Employment Council, on an average, serves 4,000 persons annually through direct services and it's sub- contractors. Approximately 2,500 of those persons served are youth between the ages of 14 through 21.

The employment of youth has been of particular importance in the metropolitan Kansas City area. There have been many locally funded philanthropic and city-sponsored initiatives to provide youth employment. In the summer of 1992, the private sector, city of Kansas City, and non-profit sector raised over $1 million dollars to fund wages for over 1,100 youth to work in a not-for-profit organization. Since that time, the foundation and corporate communities of Kansas City have raised an average of $300,000 annually to fund wages for youth jobs.

In addition to the funding of youth wages in non-profit organizations by our local contributors, the Civic Council of Greater Kansas City also funds staff position to develop jobs for youth in the private sector, regardless of income. Most of the unsubsidized jobs developed within the private sector require youth to be at least 16 years of age.

In the summers of 1993 and 1994 approximately 1,800 jobs were generated by our private sector funded efforts. Of the 1,800 jobs developed, 1,200 were direct unsubsidized jobs in the private sector; at least 98% of those persons placed were 16 years of age or older. Of the 600 jobs that were subsidized by private contributions in the non-profit sector, 95% were 14 - 15 years of age, with others being served having special needs.

In the programs funded by the II-B summer youth program, (funded through the US Department of Labor in 1992 and 1993), 3,228 youth were hired. 1,943 or 60% of these youth were between the ages of 14 and 15.

Understandably, the issue of liability restricts the private sector program. In our job development efforts, employers have expressed their unwillingness to hire 14 and 15 year old youth due to the high potential of child labor law infractions. In particular limitation of the number of hours a 14 and 15 year old youth can work, is a discouragement to hiring these youth. I acknowledge the limitation of hours worked during the school year; 14 and 15 year old youth should focus on their education. However, during the summer, months I feel it is important that a 14 or 15 year old youth be allowed to work up to the maximum of 40 hours if they are so inclined. We should encourage youth to work if they want and not pose artificial barriers to these desires.

The City of Kansas City provides the FEC $300,000 annually to fund a reverse commute transportation system taking workers from the urban core of the city to jobs in the suburbs. One particular employer we service, and in especially during the summer, is Worlds of Fun/Oceans of Fun -- owned and operated by the Hunt Midwest Corporation. FEC transports up to 10% of this labor force of 3,000 to and from work. Worlds of Fun is the largest employer of youth in Kansas City. It not only provides jobs but also educational scholarships to the youth as a part of a job incentive program.

Worlds of Fun previously employed 14 and 15 year old youth in very large numbers until approximately two years ago. A couple of instances with 14 and 15 year old's wanting to work longer hours than allowed created a potential liability under child labor law regulations. Youth working in the theme park wanted to work more hours than allowable on the child labor law regulation and would quite often volunteer to work if additional shift time was needed. However, this became a large administrative problem determining who was too young to work the additional time. Worlds of Fun was exposed to potential fines due to the over zealousness of young people wanting to work. To eliminate the potential liability they decided not to hire 14 - 15 year old's.

This has been the response of many employers including fast food restaurants, hotels and other small business establishments as the potential exposure, risk, and bad press associated with child labor law infractions far outweigh the good created by employing young.

It is vital, especially during the summer, for 14 - 15 year old youth to be given the opportunity to work, as they are often eager and willing to work, and most impressionable.

Presently, the FEC has over 2,000 applications of youth seeking summer employment. 65% of these applications are from youth between the ages of 14 - 15 years of age. This eagerness and desire to work is the reason 14-15 year old youth are targeted by gangs, drug runners, and other undesirable elements in our community.

One of our largest concerns regarding the elimination of the government funded summer youth program through the US Department of Labor, is that there is no private sector alternative to hiring 14-15 year old youth under the present regulatory environment.

What better way, during the summer months, to keep 14-15 year old youth busy than a job -- especially if they want to work. We need this population to stay busy, to work, and even to get exhausted, earning a living while spending their time in a safe and productive environment.

I would recommend appointment of an advisory group of business, labor and community leaders to consider a summer exemption policy for 14-15 year old youth as it relates to the number of hours worked up to 40 hours per week. And to consider dissolution of regulatory barriers having an adverse impact on the employment of youth. Such regulatory reform could expand the number of private sector job opportunities available for this population.

Introduction

Good Morning. I am Bill Miller, president of Building Erection Services Company, located in Olathe, Kansas.

Today, I am representing the American Subcontractors Association, a national association comprised of over 6,000 specialty trade contractors in the construction industry and serving the industry in 75 chapters nationwide.

Thank you for inviting me to speak to the Committee today.

While we hear so much about small business being the engine of our economy, there are many road blocks that have long stalled the growth of entrepreneurship. These must be removed.

One of those is the overwhelming and bewildering regulations that are literally destroying the entrepreneurial spirit of the small business men and women in America.

Madam Chairman, I would like to commend you for taking this problem to heart and championing the "Paperwork Reduction Act of 1995." This legislation delivers on many of the issues we have long fought for, including:

- reauthorization of the Office of Information and Regulatory Affairs,
- extension of the Act to cover third-party paperwork, such as OSHA's Hazard Communication Standard,
- and establishment of a government-wide paperwork reduction goal.

We look forward to the President's signature on this important legislation. And we thank you for being a true advocate for small business.

Another bill that will give small businesses a powerful tool to combat onerous and unnecessary regulatory paperwork is passage of an amended Regulatory Flexibility Act. Congress recognized that federal requirements on small businesses needed to be reduced when it enacted the Regulatory Flexibility Act in 1980. This law established procedures for reducing the regulatory burden on small businesses. But since its enactment, the federal agencies have failed to fully implement the tenets of the Act. And the lack of judicial review provisions have left small business without a hammer.

A perfect example of agencies' abuse of their responsibilities under the Regulatory Flexibility Act are the proposed rules implementing the "Federal Acquisition Streamlining Act of 1994."

These rules, issued by the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration under the oversight of the Office of Federal Procurement Policy, generally have <u>ignored the applicability of the Regulatory Flexibility Act</u>. When the agencies have acknowledged the Act, they have <u>at best</u> given short shrift to the law's analytical requirements over the objectives of the small business community and the Small Business Administration's Chief Counsel on Advocacy.

We <u>implore</u> this committee to use its oversight power to help small businesses challenge unwilling federal agencies in cases such as this. And ASA hopes the amended Regulatory Flexibility Act crosses the President's desk soon.

I would like to give you a real life example of how regulations are destroying the desire of small business men and women to grow, to expand, and to strive for the rewards that hard work and success should bring.

My company submits a ream of paperwork to the Department of Labor on a quarterly basis. We are a company that has employment contracts with local labor organizations to provide workers with the necessary skills. These employees are dispatched without regard to race, gender, creed or color. The labor organizations actively solicit applicants in these categories, and as a company, we rely on the labor organizations to supply our work force.

However, after an audit by the Office of Federal Contract Compliance Program, we received 74 citations--for failing to complete paperwork. We were cited because we didn't complete the necessary paperwork for soliciting female and minority workers and screening for illegal immigrants. But the labor organization does both.

Now we send our paperwork to the Department of Labor every quarter. We are in compliance. Yet we don't have one more female or minority on the job.

Are regulations achieving their objectives? Not in this case.

In my experience, the Department of Labor leads the way in oppressive and repressive regulation through the Occupational Safety and Health Administration. OSHA rules and regulations are <u>overwhelming in volume</u>.

In the 25 years since the passage of the Occupational Safety and Health Act, over 3,000 pages of regulations, tables, indexes, and basic references have been issued to govern the safety and health of American workers.

Over <u>one million words</u> are included in the Safety and Health Code of Federal Regulations. And, despite all this verbiage, the accident rate is about as high today as it was in 1970.

One of the most frequently cited OSHA violation is incomplete Hazard Communication paperwork, such as the written program or missing Materials Safety Data Sheets.

Paperwork does not make safe work.

No one, that I know, ever asked to see our Material Safety Data Sheets--<u>except an OSHA inspector</u>.

And some of the regulations are non-specific. Many times citations are issued from the "general duty clause" that gives the inspector the authority to cite a violation, based upon his or her own judgment, without specific rules that the employer could anticipate.

<u>No one that I know is against work place safety.</u>

As business men and women, we know and understand the importance of keeping our workers safe and healthy. An unsafe work place is bad for the morale of people on the job, it slows the work pace, and affects the bottom line.

ASA is committed to improving safety in the construction industry and believes the most effective method of achieving the goal of occupational safety and health should be performance-based prevention and education. Not enforcement-driven tactics.

ASA recommends that OSHA's resources are reallocated to education and assistance, rather than enforcement. OSHA should be directed to establish a small business outreach program and allow OSHA training to be conducted by OSHA-approved third-parties, such as associations. As a result, the education outreach would be broader and deeper into the small businesses community .

And if OSHA truly intends to make the work place safer, we need to mandate employee accountability. Failure to follow the safety rules, and utilize the safety equipment is not only endangers the employee but also those around him. Employees should be held accountable, too.

In addition to the regulatory burdens facing small business, subcontractors who participate in Federal procurement are up against a plethora of challenges. In our written testimony, we provide the committee with several recommendations for improving the Federal procurement process.

Some of our suggestions include:

- amend the Miller Act to improve the payment rights for subcontractors and suppliers through payment bonds;
- require bid listing for Federal construction contracts to assure "bid shopping" is ~~not~~ ~~used~~ ~~to~~ compromise the quality of work on ~~increase the cost of~~ Federal ~~procurement~~ jobs;
- and amend the Prompt Payment Act to provide for timely payment to contractors and subcontractors who participate Federal grant programs, such as highway and housing projects.

Madam Chairman, ASA looks forward to working with you and the Committee to explore the issues facing small business.

We believe significant progress can be made with the legislation and regulatory changes we have suggested today.

Statement of the

American Subcontractors Association

before the

Committee on Small Business
United States House of Representatives

on

Small Business Issues

presented by

William R. Miller
President, Building Erection Services Company
Olathe, Kansas

April 27, 1995

in Kansas City, Kansas

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Statement on Small Business Concerns

The American Subcontractors Association (ASA) is a national trade association with more than 6,000 firms representing all major construction trades in 75 chapters. In addition to its individual company members, ASA represents 19 other specialty trade associations with members of their own. ASA appreciates the opportunity to present the Small Business Committee with a menu of issues that should be addressed to help small businesses prosper. While we hear so much about small business being the engine of our economy, ASA believes there are many road blocks that have long stalled the growth of entrepreneurship. These must be removed.

REGULATORY REFORM

Regulatory reform is an obvious first step to tackling the federal information collection and compliance requirements that burden business. We commend Chairman Jan Meyers for her leadership on the "Paperwork Reduction Act of 1995," and we look forward to the President's signature on this important legislation. Small business will be relieved to see the final passage of H.R. 9 which includes provisions for judicial review of an agency not complying with Regulatory Flexibility Act. Small businesses and other small organizations have long shouldered the same burden of federal regulations as their larger competitors, and with fewer resources.

The Paperwork Reduction Act of 1980 established the Office of Information and Regulatory Affairs to assure the government receives the information it needs while protecting the public from unreasonable or unnecessary paperwork. ASA supports the Paperwork Reduction Act of 1995 because it delivers on many of the issues we have long championed, including reauthorization for OIRA, extension of the Act to cover third-party paperwork, e.g. OSHA's Hazard Communication Standard, and establishment of a government-wide paperwork reduction goal.

Congress recognized that federal requirements on small businesses needed to be reduced when it enacted the Regulatory Flexibility Act of 1980. This law established procedures for reducing the regulatory burden on small businesses. However, since its enactment, the federal agencies have failed to fully implement the tenets of the Act. The Regulatory Flexibility Act amended the Administrative Procedures Act to ensure that regulators do not routinely burden small businesses disproportionately by imposing uniform regulations on all entities regardless of size. Agencies must analyze their regulations' impact on small companies and organizations to balance the burden imposed by regulations against their benefits, and propose alternatives to regulations which create economic disparities between different-sized entities.

A perfect example of agencies' abuse of their responsibilities under the Regulatory Flexibility Act are the proposed rules implementing the "Federal Acquisition Streamlining Act of 1995."[1] These rules, issued by the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration under the oversight of the Office of Federal Procurement Policy, generally have ignored the applicability of the RFA. When the

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[1]Public Law 103-355

agencies have acknowledged the applicability of the Act, they have at best given short shrift to the law's analytical requirements over the objectives of the small business community and the Small Business Administration's Chief Counsel on Advocacy.

ASA supports judicial review of agency action (or inaction) under the Regulatory Flexibility Act. This will be the most effective tool to assure that agencies cannot ignore the requirements to conduct a regulatory flexibility analysis or to conduct one in a wholly perfunctory manner, ignoring public comments and those of the SBA's Chief Counsel on Advocacy.

SURETY BONDING

Many ASA members perform construction for the federal government. Sometimes they serve as prime contractors, contracting directly with the government. Other times they serve as subcontractors through a prime contractor. These specialty trade contractors also contract with state and local governments, as well as private owners. Surety bonding is required on all federal and federally-assisted construction contracts in excess of $100,000, most other public construction (state as well as local), and increasing numbers of private construction projects. Thus, ASA members have a direct and real interest in surety bonding.

Bonding can mean life or death to a firm in the construction industry. Failure to get work or failure to get paid for work performed, spells disaster for any firm. One key of bond in construction is the payment bond. The payment bond assures the contractor's subcontractors and suppliers that they ultimately will be paid.

The ability to get a contract may depend on the ability to get a bond. In fact, ASA testified before the Procurement, Exports and Business Opportunities Subcommittee of this Committee on April 5, 1995, regarding the difficulty of obtaining bonds. Some of the recommendations included in that testimony are:

- continuation and some changes for SBA's Surety Bond Guarantee Program, including increase the maximum bond size allowable under the program in order to serve a expanding pool of businesses, require notice about SBA's surety guarantee programs on government solicitations for contracts that require bonding, and extend the pilot Preferred Surety Bond Guarantee Program (scheduled to expire on September 30, 1995);
- expansion of the bond waiver pilot program currently in place under the Small Business Act to allow for alternative payment protections;
- Exercise of the Committee's oversight authority to assure OFPP and DOD end their procrastination of implementation of Policy Letter 91-4, which would allow the use of irrevocable letters of credit in lieu of surety bonds;
- amendments to the Miller Act to improve the payment rights for subcontractors and suppliers through payment bonds.

In our testimony today, we will cover the amendments to the Miller Act which would address one of the greatest problems encountered by subcontractors.

An integral part of the bonding issue is the inadequate protections provided to subcontractors and suppliers under some payment bonds. One of the most serious problems facing

subcontractors and suppliers on federal construction is the inability to get paid for work performed if a contractor defaults.

The fundamental need of subcontractors and suppliers who furnish labor and materials to a construction project to be paid has long been recognized. In order to protect subcontractors and suppliers, the various states have enacted lien laws to secure a certain priority of payment and thereby aid in the collection of sums due for services rendered on private construction projects. However, public property, in effect owned by thc people, may not be liened.

Congress recognized this dilemma when it enacted the Miller Act in 1935. At the time of enactment and later amendment, the Miller Act was considered a good law and, up to a point, it has been. But the protections afforded subcontractors under the Miller Act today often are illusory. ASA has long supported wide-ranging amendments to the Miller Act. These proposed amendments include:

(1) Requiring the payment bond to equal the performance bond. Under the Miller Act, the Government is protected by a performance bond in an amount the contracting officer "deems adequate for the protection of the United States." That amount usually is 100 percent. Subcontractors, however, are protected by a payment bond which is only one-half of the contract amount if the contract is less than $1 million; 40 percent of the contract amount if the contract is between $1 million and $5 million; and a $2.5 million maximum if the contract is for more than $5 million.

A 1975 General Accounting Office study concluded:

"The Miller Act should be amended to permit the Federal agencies to furnish 100 percent payment bonds as long as rate schedules provide no appreciable rate reduction for less

than 100-percent coverage. The current reductions on payment bonds produce reduced protection with little or no savings in premium costs."[2]

The maximum dollar protection for a subcontractor under the Miller Act has been severely eroded by inflation. In any event, ASA believes that subcontractors deserve protection in an amount equal to that of the government. Thus, ASA supports an amendment to the Miller Act to require that a payment bond equal the performance bond on a Miller Act project.

(2) Extending liability to the Government if its agent fails to assure that a proper payment bond is in place. In the event that a Miller Act bond is not posted by the prime contractor, the contract is voidable and can be terminated by the government at its option. If the government does not terminate the contract, and the contractor defaults, the claimant has no standing to sue the government for payment since it is not in privity with the government. As stated by the U.S. Court of Appeals for the Seventh Circuit:

> "The result is . . . unjust. A subcontractor who fulfills his part of the bargain should not suffer because the prime contractor defaulted, and the government contracting officer had not insisted on compliance with the Miller Act. We agree that there is a practical problem . . . that is not addressed by the Miller Act, but that is a problem that can only be addressed, and redressed, by Congress."

ASA supports an amendment to the Miller Act to place an affirmative obligation on the government to assure prime contractor compliance with the Miller Act. Under such a provision,

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[2]General Accounting Office LCD-74-319.

the government would be liable to the subcontractor if the contracting officer fails to assure that the prime contractor provided a suitable bond. ASA believes it is wrong -- and an abrogation of congressional intent -- for a subcontractor to suffer a financial loss because of the government's failure to enforce the Miller Act.

(3) Prohibiting the waiver of rights under the payment bond. Some agreements between a general contractor and subcontractor require the subcontractor to waive, directly or indirectly, its rights under the Miller Act. Such subcontract provisions are designed to protect the general contractor and its surety by providing them with defenses on a bonded job. ASA supports legislation to nullify any contract provision that would directly or indirectly waive a subcontractor's rights under the Miller Act. Given the uneven negotiating power between a general contractor and a subcontractor, ASA believes that such provisions -- which operate to the legal and practical detriment of the subcontractor -- should be against public policy.

(4) Permitting the award of attorney fees and interest to a successful claimant. Many assume that a prime contractor or its surety settles payment claims upon receipt of notice and after investigation of the merits and validity of the claim. However, ASA receives many complaints from unpaid subcontractors that a surety's disclaimer, failure to respond, or other act has demonstrated that it is necessary to resort to actual court action in order to secure the satisfaction of the claim. In some cases, the claimant is reluctant to initiate litigation because it is clear that the legal and court costs will be so high in proportion to the amount that could be recovered as to constitute an effective legal barrier to the very protection that Congress has statutorily prescribed.

Thus, the payment bond protection afforded by the Miller Act has operated unevenly. For large firms that take on sizable subcontracts and whose claims may be sufficiently large to permit litigation, the bonds offer the protection intended. For those whose claims are small, and who most often are very small firms, the protection is not available from a practical standpoint. Thus, award of attorney fees to successful claimants will expedite claim processing or assure fair treatment for valid claims.

(5) Allow notice to a prime contractor by any method that provides sufficient proof of receipt. The Miller Act requires certain subcontractors and suppliers -- those who do not have a direct contractual relationship with the prime contractor -- to provide written notice to the prime contractor that they intend to institute action under the Miller Act. That notice must be given by "registered mail." Although most courts have excused this requirement when it has been shown that a prime contractor actually received notice, it still may provide the general contractor and its surety with a technical defense to an otherwise recoverable Miller Act suit. ASA supports legislation to amend the Miller Act to allow notice to be sent by any method that provides sufficient proof of receipt.

(6) Defining the notice as timely if the subcontractor sends it within the 90-day notice period. At least one court has ruled that the subcontractor's notice is timely only if the prime contractor receives it within the 90-day notice period. Once the subcontractor turns its notice over to the U.S. Postal Service for delivery by "registered mail," it no longer can control the timing of delivery. So, no matter how early the subcontractor sends the proper notice, it has no guarantee that it will be received by the general contractor in a timely manner, given the

statutorily-mandated delivery method. Thus, ASA supports an amendment to the Miller Act defining that notice as timely if the subcontractor sends it within the 90-day notice period.

(7) Allowing a claimant to provide notice at any time prior to 90 days after furnishing labor or materials. Some courts have ruled that notice given before the actual final day of work was premature and therefore dismissed the suit. These court rulings provide the general contractor and its surety with a technical defense to an otherwise recoverable Miller Act suit. ASA recommends that the Miller Act be amended to require notice "not later than 90 days" (rather than "within 90 days") from the date of last furnishing.

(8) Allowing the filing of suit upon the denial of a claim. The Miller Act requires a claimant to wait 90 days after it last performs labor or furnishes material on the project before filing suit. Although most courts have excused this requirement, it still may provide a surety with a technical defense to an otherwise recoverable Miller Act suit. ASA recommends that the Miller Act be amended to allow waiver of the 90-day waiting period provided the subcontractor has received a denial of its claim from the general contractor. ASA believes that there is no reason to require a subcontractor to wait 90 days when it knows that payment will not be forthcoming during that period.

(9) Allowing the filing of a suit up to one-year after anyone has furnished labor or material on a project. The Miller Act requires a subcontractor to file suit within one year from its last date of furnishing labor or material on a project. This is a serious problem, particularly for "early finishing" trades on projects where funds are retained. For example, a subcontractor whose work may be completed during the first few months of a two- or three-year project, may have its final payment delayed for several years beyond its completion date. If it files suit within the one-year,

the prime contractor and the surety may defend on the ground that the money is not yet due. If the subcontractor waits beyond the one year, it loses all rights under the Miller Act. ASA recommends that the Miller Act be amended to allow the filing of suit up to one-year after anyone has furnished labor or material on the project.

(10) Extending the protections of the Miller Act to progress payments. Under the Miller Act, a subcontractor may not file suit under the payment bond until it has been off the job for 90 days. Thus, a subcontractor has no right under the Miller Act to assure the receipt of periodic progress payments. This problem is exacerbated by terms, frequently found in subcontracts, that prohibit a subcontractor from stopping work because of nonpayment. Thus, on a large job of lengthy duration, a subcontractor could be forced to work for months or even years without receiving payment, and have no recourse until the job is completed. Therefore, ASA supports an amendment to the Miller Act that would extend the protections of the Act to progress payments.

(11) Extending protections of the Act to lower tiers. Coverage under the Miller Act and hence the right to bring an action under the contractor's Miller Act bond extends to those in direct contractual relationship with the prime contractor. The right to sue and recover under the Miller Act thus extends no further than the supplier to a subcontractor and second-tier subcontractor (a sub-subcontractor), because these are the only entities with a direct contractual relationship with a subcontractor of the prime contractor. Yet there may be multiple tiers of subcontractors on a federal construction project. This has become increasingly likely with the advent of the increased use of contract bundling, design-build, construction management, general contractors that do no part of the actual construction themselves, and increased specialization in construction. ASA

supports legislation to amend the Miller Act to extend the protections of the Act to all on-site subcontractors and their suppliers.

PROMPT PAYMENT FOR GRANT PROJECTS

Construction contractors and subcontractors often find themselves faced with slow payment problems on federally-assisted contracts but without protections. In 1988, Congress enacted legislation that established prompt payment standards for every member of the construction team on federal contracts.[3] But without question, the Federal Prompt Payment Act does not apply to contracts awarded by state and local government recipients of Federal grants. Thus, contractors and subcontractors are told to look to the payment protections contained in state laws.[4] Almost all states have some type of prompt payment statute. Some state legislatures left large loopholes regarding contract payments made with federal grant funds. In practical terms, a state agency can point to these provisions, often loosely worded general exceptions, to conveniently avoid late payment interest penalties when the late payment pertains to a federally-assisted contract. The contractor finds itself in a "twilight zone" between federal law and state law. In any event, a majority of states have provided no or little prompt payment protections for subcontractors and suppliers.

Current Federal regulations already address such financial issues as payment requirements between the Federal government and the grantee, allowable costs, and the permissible use of program income. Extensive standards are prescribed for solicitation, award and administration of

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[3] Public Law 100-496

[4] The Foundation of the American Subcontractors Association is preparing a synopsis of state prompt payment laws, which will be submitted to the Committee upon completion.

the contracts by the Federal government grantee. However, timely payment to contractors and subcontractors for work performed is overlooked.

ASA recommends an amendment to the Prompt Payment Act that would require states, local governments and other government recipients of federal dollars to adhere to the payment standards established by the Act, unless they follow their own prompt payment law that provides comparable payment protections. This legislation is especially timely in view of the proposed expanded use of block grants to state and local governments.

BID LISTING

In the construction industry today, prime contractors subcontract almost all work to specialty contractors, up to 100 percent of a project. On federal projects, prime contractors subcontract 80 to 85 percent of the work. Since is the subcontractors who perform most of the construction work, it the bid price of the subcontractors that ultimately determines the cost of federal construction.

Many prime contractors who win a federal construction contract, "shop" around for lower subcontract costs. This process is called "bid shopping." Who benefits from bid shopping? Certainly not the subcontractor, nor the federal government. The price differential that the prime contractor is able to widen between the accepted fixed price award offered by the government and the bids altered by the subcontractors to get business goes directly to the prime contractor's profit margin. When a subcontractor's work costs the prime contractor less, the prime contractor pockets the difference.

This method of pricing inflates costs for taxpayers who pay for the contract. Further, a subcontractor who is found to take a subcontract with little or no profit margin, frequently will cut corners, ultimately requiring the government to pay later for higher maintenance costs. In addition, bid shopping can create bad feelings among all contractual parties because of time delays and dishonesty. Most importantly, it destroys the competitive bid process.

The most simple method of avoiding these problems is call bid listing. Bid listing only requires the prime contractor to list the subcontractors that will be used if its bid is accepted. ASA believes that bid listing is a practical solution to bid shopping because it solicits the actual minimum price of the subcontractor and ensures that this real price will be passed along to the awarding agency at the time of the prime contractor's bid.

Bid listing increases the incentive for highly qualified and reputable specialty contractors to bid on projects. It also protects the public and taxpayers' interests by assuring the government receives the quality and scope of work for which it is paying.

Public works construction relies on the competitive bid system in which the lowest responsible bidder prevails on the bid date. When a prime contractor bids on a project, wins the award at an established price and then lowers the cost of its operation by bid shopping, the government, the taxpayers and the subcontractors who have lowered their profit margin to retain the job, all lose. Bid listing is a practical solution to this problem.

OSHA REFORM

The current Congressional examination of Federal agencies and their paperwork requirements should have implications for many of the onerous regulations that are encountered by subcontractors and other small businesses when complying with Occupational Safety and Health Administration regulations. However, ASA believes some fundamental changes should be made in the Occupational Safety and Health Act. By shifting resources from enforcement to outreach, the agency could focus on educating and assisting businesses, especially small businesses, meet the safety and health needs of America's workforce.

ASA is committed to improving safety in the construction industry and believes the most effective method of achieving the goal of occupational safety and health should be performance-based prevention and not enforcement-driven tactics. ASA has a strong record of working to improve the safety and health of workers on construction industry jobsites. In conjunction with the Foundation of the American Subcontractors Association, we strive to increase safety awareness and to improve the safety practices of our member companies and others in the construction industry.

In the 25 years since the passage of the Occupational Safety and Health Act, over 3,000 pages of regulations, tables, indexes, and basic references have been issued to govern the safety and health of American workers. Over one million words are included in the Safety and Health Code of Federal Regulations (28 CFR 1910 and 1926). And, despite all this verbiage, the accident rate is about as high today as it was in 1970. Image the impact on a small construction firm that must comply with all these standards. The safety officer, who manages the implementation of these regulation, is often the owner, controller and supervisor, all-in-one.

ASA offers some key recommendations for helping small business by amending the OSH Act. They include:

- establish a small business outreach program within OSHA to inform, educate and train small businesses about their responsibilities under OSHA standards;
- allow OSHA training to be conducted by OSHA-approved third-parties, such as associations, so the education outreach is broader and deeper into the small businesses community;
- adopt performance-based enforcement policies under which employers with good safety records would be exempt from OSHA inspections;
- amend the OSHA fine structure to allow employers to take corrective action and provide training to off set punitive fines; [5]
- make employees more accountable for their actions which could endanger themselves or others by allowing OSHA to fine employees for safety and health violations, when it can be demonstrated that the employer has provided proper equipment and training;
- prohibit prime contractors from passing along their OSHA fines to subcontractors, i.e. requiring subcontractors to hold harmless prime contractors from OSHA fines.

ASA encourages the Small Business Committee to act as a strong advocate for small businesses during the debate on OSHA reform. While many efforts to streamline will help the business community, ASA is still committed to workplace safety and believes the charter of OSHA should include outreach to small business.

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[5] President Clinton announced a new administrative policy on March 17, 1995, that would allow agencies to waive fines for employers who take corrective action. ASA commends this approach but believes it should be in the statute.

TAX REFORM

Estate Taxes

In a recent survey of our membership, ASA discovered that estate tax reform is one of the top issues for construction subcontractors. Many within our membership are second and third generation managers who are looking forward to the inevitable change that will turn the ownership of the family business to them. When the owner of a family business dies, the value of the company is added to the owner's estate and taxed, after exemptions, at rates as high as 50 percent. As a result of this excessive tax, many family businesses must be sold just to pay the tax collector. In 1981, Congress provided an exemption from estate tax for the first $600,000 in an individual's estate, but this exemption is inadequate when fixed assets, such as land, buildings and equipment, are involved. In addition, in the 14 years since the exemption was put in place, inflation has devalued it even more.

ASA supports federal legislation to allow a closely held business to be passed on intact without estate tax consequences if the heirs continue to operate the business. If the business is sold or liquidated, it should be taxed at rates no higher than ordinary income. Although the House of Representatives has just passed a tax package, ASA is hopeful that the commission, recently established to redesign the tax by House Speaker Newt Gingrich and Senate Leader Bob Dole, will look at ways to help entrepreneurs pass along their businesses in tact.

<u>Independent Contractor Status</u>

In January, the Small Business Committee held oversight hearings on the complexities of the Internal Revenue Service's classification of independent contractors. ASA applauds the committee for examining this issue, and we support a thorough congressional review.

Companies that use independent contractors file an IRS 1099 form for every contractor receiving more than $600 in a year. IRS complains that failure to collect complete information on these contractors results in uncollected income tax. The agency also speculates that workers who would ordinarily be employees are at the mercy of companies that classify them as independent contractors, and therefore, do not pay income taxes and other benefits.

Currently, IRS uses 20 common law tests to determine if an individual is an employee or independent contractor. By failing one question, an individual often is classified as a worker. However, the implementation and outcomes of this method have varied, leaving companies vulnerable to IRS penalties and interpretations. Employers who intentionally misclassify employees as independent contractors gain an unfair competitive advantage in an industry in which most contracts are awarded to the low bidder, yet employers who wish to legitimately use independent contractors are often wary of IRS rulings that leave them responsible for paying employment taxes and benefits.

ASA is concerned about the inconsistency in the Internal Revenue Service's definition, and the subsequent misclassification of individuals as employees. The confusion in the existing rules directly translates into compliance difficulties for employers. ASA is working with the Small

Business Legislative Council in supporting legislation that would clarify the definition of an independent contractor that can be enforced in an evenhanded manner by the IRS. The legislation would create an entirely new safe-harbor regulation that would contain a simpler test for independent contractor classification. The service provider, who is trying to be classified as an independent contractor, and the service recipient would have to pass appropriate tests that are administered in a yes/no format allowing companies and individuals to clarify their status in an clear manner.

Thank you for asking ASA to comment on the issues impacting small business and we look forward to working with the Committee to rectify many of these.

WRITTEN TESTIMONY

Presented to: ***The House of Representatives Committee on Small Business***
Field Hearing on the U.S. Small Business Administration's programs
Overland Park, Kansas April 27, 1995

Presented by: ***Mike O'Donnell***
Regional Director, University of Kansas Small Business Development Center

INTRODUCTION

The University of Kansas operates a Small Business Development Center (KU SBDC) located in Lawrence, Kansas, in partnership with the U.S. Small Business Administration (SBA), the Kansas Department of Commerce and Housing (KDOCH) and the local community.

This Center is one of ten regional SBDCs in the state of Kansas and is responsible for assisting potential business owners and existing business owners in a geographic region consisting of six counties in northeast Kansas. The combined population of these six counties today is approximately 220,000.

I have been the regional director of the KU SBDC since March 31, 1991, and prior to that served the Center as the assistant director for almost two years. My background prior to that includes eight years in industrial sales and marketing with Ford Australia, and many years growing and working in a family owned business. I have an MBA degree from the Australian Graduate School of Management.

I am also the director of the Small Business Institute (SBI) program at the University of Kansas and sit on the board of directors for the Wakarusa Valley Certified Development Company (CDC), the organization that packages SBA 504 loans in Douglas County, Kansas.

At the request of Representative Meyers' office, my written testimony today will not address the activities of the SBI program or the SBA's 504 program although I will be happy to respond to any questions from Committee Members about my experiences with either of these two programs.

KU SBDC ACTIVITIES AND EFFECTIVENESS

The Committee has previously received testimony from many organizations with regard to the effectiveness and usefulness of Small Business Development Centers. My role today is to present information purely on the operation, activities and effectiveness of the KU SBDC.

Just as there are small businesses of every shape, size and motivation, so too there are SBDCs across the country each offering their own package of services to potential or existing small business owners.

On a national scale, the KU SBDC is quite small -- our Center receives the second least funding support of all ten regional SBDCs in the state of Kansas and, accordingly, has one of the smallest staffing levels. Nevertheless, the population base served in our geographical region is the third largest in the state.

The KU SBDC is located in Lawrence, Kansas, a fast-growing university town approximately 30 miles west of here, with a population of approximately 65,000. In addition to the University of Kansas, the largest university in the state of Kansas, Lawrence is also home to Haskell Indian Nations University.

The KU SBDC was founded in 1984 at the same time as the SBDC program began in the state of Kansas. The KU SBDC office was originally located on-campus in the School of Business and remained there until 1988 when, because of increasing complaints about the inaccessibility of the office to the public, it moved off campus to co-locate with the local Chamber of Commerce in downtown Lawrence.

Today, the SBDC has approximately 800 square feet of office space which includes a small meeting room, library resource area and public access computer area. The Center shares building space with the Lawrence Chamber of Commerce and also houses a field representative for the existing industry division of the Kansas Department of Commerce and Housing.

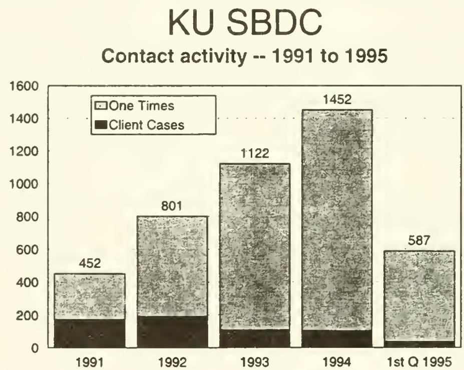
Staffing at the Center consists of myself, as regional director, Ms. Malinda Bryan, assistant director, four 12-hour-per-week graduate student assistants and one 12-hour-per-week

undergraduate student assistant. The assistant director's position became a full-time appointment only in October of 1994.

The Center does not use any outside paid consultants. All consulting activities engaged in by the Center are provided in-house, by myself and the assistant director, with research support provided by our student assistants. The KU SBDC maintains a reasonably up-to-date library of small business reference materials that complement those available in the public or university library system. The KU SBDC also has a resource and computer room modeled loosely on the Business Information Center (BIC) maintained by the SCORE chapter in Kansas City.

The KU SBDC's six county service territory includes two of the fastest growing counties in Kansas (after Johnson county) -- Douglas County and Leavenworth County. Both counties have been growing at an average annual rate of 1.5% to 2.0%.

The following chart summarizes activity levels at the KU SBDC from 1991 through the first quarter of 1995.



In terms of total contacts with the public, either with prospective or existing small business owners, the KU SBDC has already exceeded 1991 totals after just one quarter of 1995.

The SBDC provides services to two categories of customers: "one-time contacts" and "clients". One-time contacts are counted when Center personnel respond to telephone or walk-in inquiries of a small business nature. Often the inquiry may consist of a simple question, easily answerable from the resources collected at the Center. On other occasions, the contact may require an intensive, one-on-one counseling session on a topic such as how to secure financing for a business idea. If no on-going assistance is sought or required, the contact is counted as a one-time case by the SBDC.

For the first quarter of 1995, five hundred and fifty (550) one-time cases were logged by the Center. The bulk of these (204) were inquiries from individuals not-yet-in-business, 191 inquiries were received from existing businesses, and 165 were classified as "general inquiries". This latter catch-all category tracks a wide range of questions and inquiries received by the SBDC on all sorts of business-related issues.

On-going clients require extended consulting support and assistance over a number of hours and number of meetings.

During the first quarter of 1995, the KU SBDC entered into consulting engagements with 37 new clients, 19 (51%) of whom are already existing businesses.

The increasing demand for the services provided by the KU SBDC, evidenced by the growth in our activity over the last five years, has resulted in the Center, by necessity, learning to operate more effectively and efficiently. Fewer clients are receiving on-going assistance from the Center although those that do are receiving significantly more consulting time per case than those tracked in 1991.

In addition to dealing with inquiries and providing counseling assistance to potential or existing small business owners, the mission of the KU SBDC also includes educational responsibilities. Many of these are satisfied through one-on-one counseling although our Center also promotes workshops and seminars on a regular basis, on the average of three-to-four per month.

Many of the seminars are provided in sponsorship with other organizations and agencies, the Lawrence Chamber of Commerce in particular. Many of these seminars are presented by myself.

More statistics related to the operation of the KU SBDC are included in an attached *Small Street Journal* newsletter -- this one-page, in-house newsletter is produced more or less each quarter (as time allows) to communicate Center activities to individuals and organizations in the KU SBDC service territory.

The KU SBDC is the only organization in our six county service territory which takes the time to sit down, talk with, and assist ***every*** individual who has any questions about starting, growing or running a small business -- SBDCs, however, do ***not*** provide legal advice nor do we provide tax planning or tax preparation advice.

An important objective at the KU SBDC is to assist start-up and existing businesses develop professional working relationships with CPAs, accountants, attorneys and the like, without whom, no small business would ever be successful.

The measure of our effectiveness in providing assistance to potential or existing small businesses is evidenced by the increasing demand for services offered through the KU SBDC.

KU SBDC COUNSELING

To provide some practical insight into the breadth and depth of services provided by the KU SBDC, the Committee may be interested in a snapshot of the individuals and businesses I have personally met with and/or counseled in the last week. In accordance with our policy of providing confidential business assistance, no business or individual names will be used. The following summarizes just those major contacts logged in the last five working days:

- met with an individual recently laid-off from work who was being pressured by a Florida vending machine company to invest some of his retirement savings in a "sure fire, money-making" venture;

- assisted a woman-owned business in developing cash flow projections and budgets required for a SBA loan application that would allow her to quit a job and focus full time on her existing business (presently operated part-time);

- provided coaching assistance to a husband and wife team, manufacturers of high-end audio products, preparing to travel to Los Angeles to attend a large industry trade show -- over the last few weeks, I have critiqued their sales presentation, reviewed marketing materials and assisted with the formulation of business and marketing plans;

- met with a young man interested in purchasing a franchise in partnership with his father -- presently unsure of what business would be the best for the two of them to purchase;

- reviewed letters-of-introduction (sales solicitation letters) and materials for a start-up, one-person (a Ph.D.), sports psychology business;

- met with a business person who owns a number of area franchise outlets to discuss demographic trends in the Lawrence community;

- assisted with business planning and marketing direction for a business owned by two women providing services to individuals with disabilities;

- assisted an existing business owner in developing financial projections and budgets for inclusion in a business plan being prepared for presentation to a commercial loan officer -- looking to buy another business and merge it into his existing business;

- reviewed a business plan and offered suggestions to an individual considering leaving full time employment to begin an event planning business;

- assisted an individual prepare a MICROLOAN application for a proposed new publishing business;

- worked with a young man to develop a business plan and realistic budget for a proposed new recreational retail computer store in the community, which will require a SBA Low-Doc loan to start (this client was originally referred to the KU SBDC by a local bank);

- assisted an individual in reviewing financial statements received from an existing business she is looking to buy and helped the client understand the various elements of financial statements and how they all fit together;

- met with the owner of a business grossing in excess of $2.5 million in sales to discuss base strategy for a merger with a smaller company (same industry) in a nearby town.

During the same period of time, the KU SBDC assistant director met with a similar number of individuals, if not more. The above scenarios do not reflect discussion topics with walk-ins or telephone inquiries additionally handled on a daily basis.

FUNDING SOURCES AND USES

The KU SBDC is not a big budget operation. My objective has always been, and continues to be, to run the Center as if it was a small business. As the demand for services has exploded, I have had to make a little go a long way.

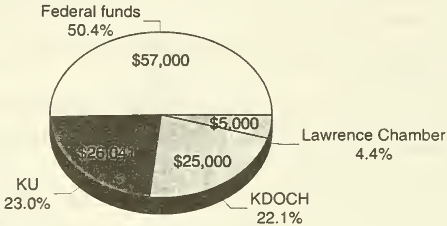
Existing funding for the Center has been essentially static since the start of this decade. Taking into account inflation, the Center has lost ground. The pie charts on page 8 identify the sources and uses of KU SBDC funding.

Total allocation for the Center is approximately $113,000, including $57,000 (50.4%) in federal funding provided through the Small Business Administration.

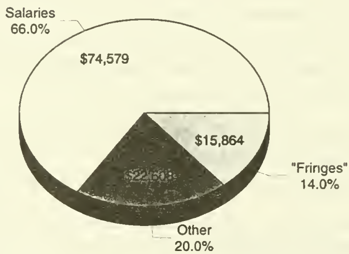
Additional funds are provided by the University of Kansas (23.0%), the Kansas Department of Commerce and Housing (22.1% -- this funding is directly provided through economic development initiative funds collected from lottery revenues), and from community economic development funds distributed to the KU SBDC by the Lawrence Chamber of Commerce (4.4%).

Funds available are mostly used to pay for personnel salaries (myself, the assistant director and all student employees) and "fringe benefits" (the largest component of which is mandatory employment taxes). The balance of funding is used to pay for overhead costs such as rent, utilities, telephone, copying, printing, and the like.

KU SBDC
1995 Sources of Funds



KU SBDC
1995 Uses of Funds



THE FUTURE

There is no indication that the explosion in demand for services provided by and available through the KU SBDC is even close to leveling off. For our Center to be able to deal with this increasing demand, some expansion will be necessary.

Under the current economic climate, however, prospects for additional funding from the federal government are nonexistent, and it would be foolish of me to anticipate otherwise.

The Members of this Committee will determine whether we are able to maintain our existing federal funding.

At the same time, the University of Kansas is facing financial pressures and, accordingly, we face uncertainties in maintaining the existing level of university funding support for the KU SBDC in the years ahead.

Nevertheless, in the same sense that I counsel small businesses to develop strategic plans for their business, so too the KU SBDC has a strategic plan it is working towards.

For our Center to survive and grow in the face of increasing demand, strategic alliances have been (and are being) developed with local organizations with a view to cultivating additional funding sources.

In the short term, with the support of the Lawrence Chamber of Commerce, we have been able to encourage local government to recognize the worth of the KU SBDC in assisting with the creation and maintenance of successful small businesses in our community. Next year, the City of Lawrence and Douglas County will each contribute $5000 from economic development funds (from sales tax revenues) to the operation of the KU SBDC.

In the medium term, the KU SBDC and nine other regional Centers in Kansas, under the auspices of the state KSBDC director, hope to present to the Kansas Department of Commerce and Housing a strong case for incremental state economic development funding.

In the long term, businesses that the KU SBDC have helped grow and succeed ("success stories") will hopefully assist fund the Center in the future.

All of these strategies are predicated by the KU SBDC generating quantifiable, measurable and results-focused assistance to existing and potential small businesses in our community.

As a taxpayer, I am very concerned that there are a number of federally supported "small business" programs that pretend to offer assistance to small businesses. As a small business practitioner, I have seen most of these programs up-close and worked with clients seeking to avail themselves of such programs.

The primary SBA function of guaranteeing loans through the Low-Doc and 7(a) loan programs remain the most important, most accessible and most valuable of all the programs out there.

I encourage the Members of this Committee to continue reviewing, carefully and closely, many of the other programs.

Although from my perspective, I see the KU SBDC playing a valuable role in assisting small businesses start and grow, I recognize that the SBDC program is one that is also open to review in the present economic climate.

I thank all of the Committee Member for the opportunity to present this testimony and welcome the opportunity to respond to any questions you may have.

this testimony was prepared by Mike O'Donnell, Regional Director, KU SBDC
734 Vermont Street, Suite 104, Lawrence KS 66044 Ph: (913) 843-8844 Fax: (913) 865-4400

Small Street Journal

The occasionally official organ of the University of Kansas School of Business small Small Business Development Center First Quarter 1995

THE KU SBDC 1995 FIRST QUARTER REPORT

Following the patterns evident in 1994, the University of Kansas School of Business Small Business Development Center (KU SBDC) is continuing to experience a solid increase in the demand for its services.

Through March 31, 1995, counting all one-time and client contacts, a 25% increase was seen over the previous year. The chart on this page shows the increasing "busy-ness" of the KU SBDC.

Since the Center moved into the Lawrence Chamber of Commerce building in 1991 and began developing a unique identity as an outreach program of the KU School of Business, the demand for services has been increasing and continues to increase at a double-digit rate each year.

The SBDC provides services to two categories of customers: "one-time contacts" and "clients".

One-time contacts are counted when Center personnel respond to telephone or walk-in inquiries of a small business nature. Often the inquiry may consist of a simple question, easily answerable from the resources collected at the Center. On other occasions, the contact may reflect an intensive, one-on-one counseling session on a topic such as how to secure financing for a business idea. If no on-going assistance is sought or required, the contact is counted as a one-time case by the SBDC.

For the first quarter of 1995, five hundred and fifty (550) one-time cases were logged by the Center. The bulk of these (204) were inquiries from individuals not-yet-in-business, 191 inquiries were received from existing businesses, and 165 were classified as "general inquiries". This latter catch-all category tracks a wide range of questions and inquiries received by the SBDC on all sorts of business-related issues

On-going clients require consulting support and assistance over a number of hours and meetings, that could stretch out over a period of months.

During the first quarter of 1995, the KU SBDC entered into consulting engagements with 37 new clients, 19 (51%) of whom are already existing businesses.

The increasing demand for the services provided by the KU SBDC, evidenced by the 707% growth in activity over five years, has resulted in the Center, by necessity, learning to operate more effectively and efficiently. Fewer clients are receiving on-going assistance from the Center although those that do are receiving significantly more consulting time per case than those tracked in 1991.

Improved library resources at the Center, the development of better handout materials and the offering of monthly "how to start a business" classes have all contributed to this "paradigm shift" being experienced at the KU SBDC.

During the first quarter of 1995, seventy-seven (77) people attended seminars presented, sponsored and/or co-sponsored by the KU SBDC. One interesting statistic -- 45% of these seminar attendees were existing business owners.

KU SBDC MISSION

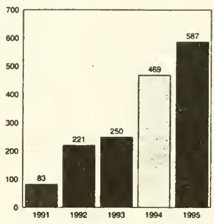
The Kansas Small Business Development Centers provide management assistance, resource referrals / business information, and training to small business owners (including potential business owners) and inventors to enhance the success of business ventures and the wealth of Kansans through innovation, expansion and increased productivity.

Although most of the KU SBDC's activity is concentrated around Lawrence and Douglas County, the Center is responsible for a six county region in northeast Kansas including Douglas, Franklin, Jefferson, Leavenworth, Atchison and Doniphan counties. The SBDC is assisted by an associate Center at Ottawa University in Franklin County and a new associate Center at Benedictine College in Atchison County.

The combined populations of these six counties in 1990 was 208,381. In 1994, the population base was estimated to be 219,421. By 1999, this population base is expected to grow to 230,557. The demand for KU SBDC services is anticipated to increase correspondingly.

KU SBDC - 1991 to 1995

Total Contacts + Cases – 1st Qtr Comparisons



KU Small Business Development Center, 734 Vermont, Suite 104, Lawrence KS 66044 (913) 843-8844 Fax (913) 865-4400

THE YEAR AHEAD

A number of large events and activities are planned for the KU SBDC in the months ahead, the pressures and demands of clients notwithstanding.

- CAMP ENTERPRISE (July 16 - 21) is a summer camp for young women, aged 15 to 24, who want to learn and develop the skills necessary to, one day, start and run their own small business.
- STRATEGY 2000 (October 24) is a full-day workshop for women in business and those professionals who work with women-owned businesses. Co-sponsored with the National Education Center for Women in Business, Seton Hill, PA.

STOP PRESS .. STOP PRESS ..

The finals of the Young Kansan Business Plan Competition were held on Saturday, April 22, 1995. The winning entry in the college division was John Boucard from Baker University with runner-up Darin Dredge from Wichita State. John's plan was for a high-tech voice messaging business.

The winning entrant in the high school division was Shanna Rupke from Hays, with runners-up Jana Hamil and Samantha Caywood from Campus High School in Haysville. Shanna's business plan was for the introduction of a combination laundromat, entertainment center and bar/grill.

The First Annual Young Kansan Business Plan Competition was coordinated by the KU SBDC and made possible through the generous support of Southwestern Bell.

KU SBDC contact email addresses:
odonnell@databank.com *(Mike O'Donnell)*
mbryan@databank.com *(Malinda Bryan)*

The Beginning of The End

Patrick O'farrell and Brad Garlinghouse are reaping the benefits of The End, a compact disk and tapes store in downtown Lawrence, Kansas.

During the first three months of business, The End made three-and-a-half times projected sales, and during Christmas over half the inventory was sold.

"We've done more than we've expected. Business has been exceptional," said O'farrell with a smile.

Although there are other music stores in Lawrence, O'farrell said that their music store is different because it specifically targets college students.

"We found an opportune niche that wasn't filled in this town," said O'farrell. "We're a small town music store and we know our clients better than the chain stores."

The University of Kansas Small Business Development Center assisted The End with their marketing strategies. A KU SBDC advisor researched Lawrence demographics and industry trends to help The End define their target market and reach their customers in the most effective ways.

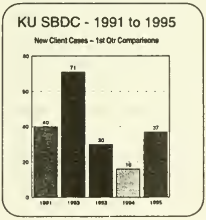
The consultant helped formulate a cost-effective marketing plan that allowed The End to use an appropriate media mix to promote their business to their specific target audience.

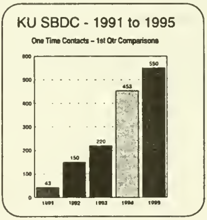
"We used 85 percent of the ideas suggested by the SBDC", said O'farrell. "The assistance they gave us was a great help."

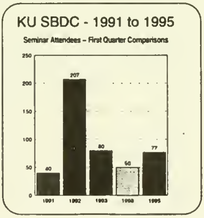
The End opened in August 1994 and has advertised in the local newspapers, on buses, coupon books, and local radio stations. They are currently exploring advertising on T.V.

The End, 1000 Massachusetts Street, has 125 music listening stations where customers can hear compact disc before they decide to buy. Customers are able to hear an entire CD as opposed to the cut versions usually available at most music stores.

Customers can also relax in the back of the store at the coffee bar, The Back Stage. O'farrell said the store was designed to appeal to college students.







Commerce Bank
of Kansas City

Plaza Banking Center
118 West 47th Street
Kansas City MO 64112
816-234-1800

April 25, 1995

The Honorable
Ms. Jan Meyers
United States House of Representatives
182 Federal Building
500 State Avenue
Kansas City, Kansas 66101

Dear Chairman Meyers:

Thank you for allowing us the opportunity to present our impressions of the Small Business Administration. We recognize there are many banks in the Kansas City area focusing on Small Business, and are grateful you think highly enough of Commerce Bank to hear our thoughts.

We have been involved with the SBA for many years, but our involvement in its programs increased in 1993. In that year we created the position of Coordinator, Small Business Lending. The person responsible for these activities is Rob Park.

Our goal in 1993 was to develop a small business lending force in the various Community Banks of Commerce. Prior to 1993 Commerce Bank had made less than 5 SBA loans in any given year. Beginning in 1993 the bank received approval for SBA guaranty on 8 loans, totalling $1 652,000 in outstandings. Each of these loans was guaranteed through the 7(a) Program. In 1994 the number of loans guaranteed increased to 11. We gained approval for 5 SBA-504 and 6 7(a) Programs loans that year. In the first quarter of 1995 the bank received approval for 11 LowDoc loans and 1 7(a) loan. As you can see, Commerce Bank is going to be one of the top producers of SBA loans in the region very soon. It should be noted these figures represent SBA loans made on both sides of the state line.

Despite the improvements in our loan volume, Commerce Bank continues to not be a part of the SBA's Certified or Preferred Lending Programs. The SBA looks at many factors when determining which banks should be a part of these programs. One thing we hope they consider is the ever changing environment of Small Business Lending. Many banks are focusing on the small business borrower and through their efforts selling the SBA programs more vigorously.

These banks however, are at a competitive disadvantage to those institutions already having Certified or Preferred Lender status. We would hope the SBA evaluates each year the banks in its community and determines from its set criteria which banks should have the Certified or Preferred preference. A competitive atmosphere for Certified or Preferred status would be healthy for both the SBA and the local banks.

The SBA, through the district office in Kansas City, provides an excellent source of information on Small Business. Under the leadership of Richard Osborn (now retired) and Neida Heusinkvelt, the SBA has developed a strong link with the lending community. These individuals, along with many in their staff, go out of their way to attend various civic and business events. They present professionally the current positions of the SBA. We hope other areas of the country receive this high level of commitment.

The communication between our organization and the SBA has never been better. The Kansas City District Office is excellent about discussing possible loan transactions with both bankers and borrowers. We recently had a borrower present a unique SBA-504 transaction to a group of SBA loan officers to obtain their feedback. The borrower was ultimately denied the loan, but was very impressed with the professionalism displayed by the SBA officials at that meeting.

As mentioned earlier, Commerce Bank utilizes the 7(a), 504 and LowDoc Programs almost exclusively. In the two-plus years of selling the SBA products we have only come across a handful of borrowers interested in any of the other programs. In fact, most of our borrowers have requested loans of less than $250,000, with the exception of the SBA-504 loans. In other words, the lowering of the guaranty threshold from $750,000 to $500,000 has not affected our bank.

The economic benefit derived from the SBA is great. Many companies we work with would not obtain a loan unless the SBA guaranteed the debt. Start up firms are a good example, also companies with only a modest financial track record. Without a strong personal guarantor these loans are often denied. The SBA fills this gap.

As a final thought, we understand the SBA is attempting to place much of the underwriting and document keeping on the banks. LowDoc and the Fast Track Pilot Program come to mind. We feel these are good initiatives. Placing more responsibility on the banks to perform these functions makes sense. It improves the speed with which a borrower gets an answer without jeopardizing the integrity of the loan guaranty.

We hope our comments are helpful in your search for ways to improve the SBA. If we can be of any further assistance, please feel free to contact either of us.

Sincerely,

Stan Ricketts
Senior Vice President

Robert W. Park
Assistant Vice President
Coordinator, Small Business Lending

Congresswoman Meyers, Committee Members, Ladies, and Gentlemen:

I am Dennis Parker, and I am President and CEO of ITN, Inc. of Overland Park, Kansas. ITN has been operational for five years, and currently employs 75 people in three states. ITN operates a nationwide fiber optic signaling network which delivers customized services to telecommunications companies in North America. Some of the services we deliver are Caller ID, Calling Card Validation, 800 Call Routing, and Cellular Locating and Verification. More than 1,000 companies use ITN's services.

As a businessman and as a private citizen, I do not consider myself an "Anti Tax Nut". I have always paid my personal taxes without protest, and the companies I have led have always paid theirs. I want you all to know, however, that I no longer smile while doing so. To illustrate, my personal income taxes for 1994 totaled more than my gross income did in 1984. I suspect I am not alone in that regard and perhaps some of you really do feel my pain.

But our subject today is small business, and the taxes on small business. On that subject, I want to make several points and offer some recommendations. First, the points:

1) Demise of the Investment Tax Credit has hurt small business; probably more so than large business because the credits really helped small businesses get started and move up the profitability curve. I ask this Committee to champion a review of the Investment Tax Credit, and reassess its benefits to development of small business.

2) If the Investment Tax Credits cannot be restored, Section 179 deductions should be liberalized. These deductions, for equipment used in businesses, could help offset the pain caused by loss of Investment Tax Credits.

3) Reductions in business meal and entertainment deductions hurt small businesses much more than large businesses, yet the rules apply equally. Most business people know that it is more expensive to attract new customers (which small

businesses must do) than it is to keep existing customers (which large businesses mostly do). Perhaps these deductions could be scaled according to the size of the business.

4) Small businesses have difficulty keeping up with changes in tax laws, and in administration of SBA and regulatory rules. Most cannot afford a full time attorney and accountant, but if they make a mistake they can expect little mercy. Please work to simplify the tax laws, streamline the interfaces, and reduce the SBA and regulatory hoops.

The face of American business is changing, and the Federal and State governments can help shape that change in a positive way. Small businesses are leading the changes with innovation and aggressive application of new technology. Larger, more entrenched businesses typically don't do those things because they involve risk. We must support and encourage prudent risk taking.

Some states have incentive programs to help fuel business and people development. Kansas, for example, offers tax credits and incentives to companies for introduction of new technology and for training or re-training people in high technology skills. That program encouraged ITN to invest in a new line of business last year, and to hire and train five new people to get the business moving. We would not have made that investment without encouragement from the State of Kansas. ITN expects to do well with that line of business, and to hire and train more people. Is the Federal government listening?

I am aware of the Federal government's efforts to assist and encourage small business. Your presence here today is testimony to the good intentions of the Federal government. But many of the programs offered simply do not work, or are less than effective, and mostly because they are difficult to apply for or to qualify for. Lately, some of that has changed. The Small Business Administration seems to be genuinely interested in listening today, and it is responding by simplifying its interfaces. With that seemingly underway, won't you please take another look at the tax laws and procedures?

To close, the Federal Government must be more sensitive to the impact of tax policies and regulatory changes on small businesses. Those policies and changes, frequently made in the name of progress, too often crush the life from otherwise vibrant small businesses. That is especially true of changes made to "close loopholes" in business tax laws, and to "avoid welfare to businesses". Such actions often become nooses which choke small businesses that just happened to be in the way, and in most cases the only lobby efforts we can afford are sitting here today. We can't afford PACs or high dollar campaign donations. We can't afford Washington offices full of Beltway Bandits. That's why we are very grateful that you have come here to listen to our testimony. Please, please hear us. We need government as an ally, not as in impediment. I am encouraged that this Committee has taken the time to listen to us today, and I hope you will do this in other places. Thanks for inviting me, and I wish you well in your efforts to help us make America a more competitive country.

Dennis D. Parker
President and Chief Executive Officer
Independent Telecommunications Network, Inc.
Overland Park, Kansas

90-701 - 96 - 8

EQUITY

Written Testimony

of

Dr. Robin F. Potter

PulseCard, Inc.

before the

Committee on Small Business

United States House of Representatives

April 27, 1995

90-701 146

4200 SOMERSET, SUITE 101, PRAIRIE VILLAGE, KANSAS 66208, (913) 649-1771, FAX (913) 649-212

Please don't read this as you would a piece of fiction. This is a true life story of a vision, of passionate believers, of investors, of nay sayers, of persistence, of opportunity, of benefit, and of the future.

The company is PulseCard, Inc.

My name is Dr. Robin F. Potter.

In 1985 I, as a practicing dentist, had an idea to start a company to offer healthcare providers the ability to offer their patients financing for healthcare services and products. Along with my partner, Mr. Jay S. Rodney II, and a mentor, Mr. Richard Bendis, we proceeded on the path to build such a company. We spent the next two years developing the concept, conducting research, selecting a name, and writing the Business Plan.

During this two-year time frame all expenses were out of pocket and funded by Jay and I. We were both employed at this time. In 1987, the name was Trademarked and a formal Marketing Communications Plan was completed. In 1988, I left my dental practice to work full-time in fund raising for the company. The initial funding was to be done through a Private Placement Memorandum. The minimum investment to start was $500,000 with a maximum of $1.5 million. It was not until September 30, 1988 that the minimum was reached. This was the last day prior to the Private Placement expiring. With the minimum raised, after a gut-wrenching nine months, the company was funded and started. Jay left his job and joined me in the full-time operation of the business.

The minimum amount raised was not enough to fund the development of the company, and fund raising was a continuous effort. All potential sources were contacted including venture capital firms, individuals, and corporations. The company had ten employees at the time and was very effective in its penetration of the greater Kansas City market. However, money was always a major concern and it took away from the day to day operations of the business. It took time to find potential investors, prepare presentations, travel, present and follow-up.

As money became a vital concern, an individual investor came forward and agreed to fund the company for 24 months, with monthly investments in exchange for equity. A contract was written by one of the leading law firms in Kansas City and both parties signed the agreement. Two months into the contract, the investor asked me to meet him and he told me he was not going to put in his monthly investments. I told him we had a contract. He told me he didn't care, "sue me." He then told me he would double his investment, but he wanted the investment to be debt and he wanted the founders to personally guarantee their stock against this debt. I told him we could not do this. He told me I had no choice. The next day I laid off everyone in the company. Looking back, it made me realize how vulnerable PulseCard and other small businesses are, to shady tactics that would not occur with an SBIC type investor.

With only myself and Jay left we struggled. Within a few months, Jay, who had children, could no longer hang on financially and had to leave. I stayed with the company and my investors. Fortunately, about this same time, a woman came to work for PulseCard on commission only. Her efforts were critical to our survival.

As the company survived and started to grow, there were three significant events that lead to the growth of this company. First, the company secured an endorsement by a major healthcare association. Second, the company was able to offer multiple card products and became the first and only in the country to do so electronically. Third, a few of the original investors agreed to provide some loans to the company. These loans enabled the company to hire two people and start attending healthcare trade shows.

Still, we were at a critical point and raising money was a continuous job. It took away from the time that could be devoted to the business and yet was a necessary component for survival and future growth. The company kept growing, and now was at a point that required funding not only for growth, but also to build the infrastructure necessary for success. About this time we received more bad news. A local bank, which had acquired our bank, told us they were going to get out of the healthcare business and we would have to move our business. Additionally, two of the bank/processing companies we were working with decided to increase their charges to us and stop paying revenues that had been contracted for. These charges threatened to destroy the company.

The requirement to move to a new bank was very difficult to implement. PulseCard was fortunate that it had one of the leading credit card bankers in the country willing to join the company if we could afford to hire him. This banker had the credibility and contacts to secure critical new bank relationships. If this person had not come on when he did, I'm sure we would not have made it. Kansas City Equity Partners made his hiring and our growth possible. Without KCEP's management assistance and funding ability as an SBIC, PulseCard would not be in existence today.

The funding provided by KCEP enabled us to hire the banker and move our processing to the largest merchant bank in the United States, Bank of America. Jay Rodney, the co-founder, also was hired and returned to the company. The growth, profitability, and the company's present position would not have been achieved without this management and financial support.

I am proud to say that today PulseCard processes in excess of $6 million per month in transactions for healthcare offices. We are the recognized leader in the nation in terms of knowledge, service and reputation. The American Medical Association (AMA) has recently selected PulseCard to provide an endorsed bankcard program to its 500,000 members. This has been made possible by KCEP. Without their assistance, a small company like ours would have never been able to secure an AMA endorsement.

With the AMA endorsement will come massive opportunity and a need for additional capital. With KCEP as an investor, we now have a partner that is ready to assist in future funding and in bringing in other investor partners as required.

PulseCard presently has 14 employees and we anticipate that we will triple that in the next twelve months. PulseCard will also provide a good return to its investors. We anticipate that revenues will exceed $100 million within the next three years.

I am sharing this with you to show how jobs have been produced and how tax revenues are enhanced by the creation of small businesses. Yet, at the same time, emphasize the struggle that exists and the help, stability and credibility that the SBIC program provides. The SBIC program is one program that pays for itself and provides a return to the country, the state, and the local economy. Long term patient capital is almost impossible for small business to locate in regions like Kansas City. PulseCard is a classic example of a company that works if given the opportunity. Our story is not unique.

Please continue to support the one program that can fund the growth of new industry and service. At this point, I would like to personally thank Mr. Paul Henson, Mr. Bill Reisler and Mr. Jack Le Claire, of KCEP, for their commitment to supporting small business in the Midwest region.

I would be pleased to discuss our story with anyone in person or via telephone. The SBIC program is a true success story, and we are only one chapter in that story. Thank you for your time and consideration.

KANSAS CITY
EQUITY
PARTNERS L.C.

Statement

of

William Reisler

KCEP I, L.P.

before the
Committee on Small Business
United States House of Representatives

April 27, 1995

4200 SOMERSET, SUITE 101, PRAIRIE VILLAGE, KANSAS 66208, (913) 649-1771, FAX (913) 649-2125

Chairwoman Meyers and Members of the Committee:

I very much appreciate the opportunity to testify before you today to present my perspective, and that of my firm, regarding the current and future status of the SBIC program.

While I serve as a director of the NASBIC Board of Governors, I am testifying today in my capacity as an investing principal of Kansas City Equity Partners (KCEP), a venture capital fund based in Prairie Village, Kansas.

KCEP is an early stage, equity investor that began investing in December 1993 and now has nine portfolio companies. We have invested $5,319,674 to date in these regional firms, and will invest an additional $20 million over the next five years in these and other high potential companies.

Today, I will provide you with our assessment of the SBIC program and its importance to the region. Additionally, the Advisory Board of KCEP has provided an attachment letter for the record, which documents its support for the program.

The Small Business Investment Company (SBIC) program, under the direction of The Small Business Administration, has proven itself to be a worthwhile and well-directed vehicle for stimulating investment in small business. Specifically, from our viewpoint as a Midwest-based Participating Securities SBIC, the newly restructured program is the best way to boost economic development through small enterprise investments. The program helps build regional economies and increases job creation, with no cost to the government, if managed correctly.

KCEP's Viewpoint of the SBIC Program

When the new SBIC Participating Securities program was announced, approximately one year ago, KCEP was raising capital for a targeted $15 million fund in Kansas City. We began the fund raising process with experienced Managers and an Advisory Board, comprised of the region's top business talent. These credentials allowed us to reach over $11 million in private capital, relatively quickly. Our sources were corporations, foundations and wealthy individuals. It is important to note that these sources do not directly invest in early stage companies.

We had determined that the optimum size for a venture capital fund, targeting investments in our region, was approximately $30 million. Unfortunately, as a first time fund in the Midwest, we could not expect to raise even half this amount from private sources.

Through quite a bit of research on the new SBIC program, its merit was clear. We elected to become an SBIC because the sensible partnership between industry and government insured the long term viability of the program.

We applied for an SBIC license because the new Participating Security allowed us to make long term equity investments in high potential companies. SBIC leverage would allow us to operate at an optimum size from the onset. The program was well designed to earn a good return for the SBA by helping funds like ours operate at optimum levels.

We felt that the new Participating Security was a very positive addition, and after being in the program for eight months now, we have high praise for the SBIC process and its people. The program is well run, with tough licensing and rational regulation. The stringent application guidelines paralleled with the ongoing reporting guidelines keep the program tightly supervised. Our peers in the industry share our high regard and have responded overwhelmingly to the program. We are proud to be one of the first licensed SBICs under the new Participating Securities program.

Regional Importance of the SBIC Program

Historically, the SBIC program has incubated many successful venture capital funds. Today, for region's like the Midwest, it is imperative that we are backed by the SBIC program in order to reach the capital levels needed to operate efficiently.

The SBIC program is vital to regional economic development. All of the venture funds currently investing in our region are set up as SBICs. This speaks well for the confidence that the private investment community has placed in the government. It also however, says that the sole resource for infusion of long term patient capital into small business could be severely crippled if the SBIC program is reduced or eliminated.

Job Creation

The job creation and economic development statistics for the SBIC program show this to be among the most efficient programs supporting small business. Attached to this testimony is a NASBIC report, titled *Today's SBIC: new design, renewed commitment, The Case for the SBIC Program,* that documents these facts.

Cost to the Government

In February of 1992, the Investment Advisory Council, chaired by Patricia Cloherty, submitted to the Small Business Administration its landmark report entitled *Financing Entrepreneurial Business: An Agenda for Action.* As the Committee is aware, the new SBIC program is based largely on these recommendations.

The Participating Security, created as part of the new SBIC program, is designed to offer long term patient capital to businesses in all regions of the country. The Participating Security allows gains from strong funds to compensate for losses in weak funds. It should operate long term with a zero subsidy rate. Given a few more years, the industry will prove that a zero subsidy rate for the Participating Security is justified.

We support the mission of this committee to <u>improve small business financing programs while lowering or eliminating the cost to government of these programs</u>. The Participating Security was created by a similar committee three years ago and is on track to achieve these same objectives.

The Participating Security enables venture funds, like ours, to thrive in regions of the country currently underserved by private sources. This will be achieved at no cost to the government, if managed correctly. Under the leadership of Mr. Robert Stillman and Mr. Saunders Miller, we are confident that this program <u>is</u> managed correctly.

Conclusion

The material impact of the SBIC program is real and it is seen daily. The SBIC program is vital for small business growth, which is the backbone of our economy. A written testimony from one of our portfolio companies is included for the record. I would encourage you, Chairwoman Meyers and Members of the Committee, to accept an invitation for a site visit to one of KCEP's portfolio companies. Then, you can also gain a first hand appreciation and account for the good that this program is doing.

Thank you for the opportunity to testify today. We look forward to this Committee's assessment and support. Thank you, and I submit my testimony for the official record of the Committee.

KANSAS CITY
EQUITY
PARTNERS LC

April 27, 1995

Chairwoman Jan Meyers
House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, D.C. 20515-6315

Dear Chairwoman Meyers:

We, as the Advisory Board of KCEP I, L.P., are writing to document our endorsement and approval of the U.S. Small Business Administration's Small Business Investment Company (SBIC) program. We are one of the first SBICs in the country to be licensed under the new SBIC program, and our region's entrepreneurial community has already benefited. Our ability to provide small businesses with access to capital has increased two to one. We now have investment ability of $33 million, with $11 million in private capital.

We believe that our investment focus on high potential businesses in the region will bring handsome returns to all participants, including the SBA. As individuals, and collectively as an advisory board, we are committed to strengthening the entrepreneurial base of our community, region and country. In accordance with this, it is our opinion that the SBIC program has merit and should be continued.

In your consideration of the current and future value of the SBIC program, we ask that you note our opinion as business leaders and entrepreneurs who have a strong concern for the welfare of small enterprise and the benefit that it brings to the U.S. economy.

Respectfully,

Michael J. Brown
Former CEO and President
Innovative Software/Informix

Kent H. Flury
Chief Executive Officer
First Data Resources Asia Pacific Ltd.

Richard C. Green, Jr.
KCEP Board Chairman
Chairman, President and CEO
UtiliCorp United

John T. Hackett
Managing General Partner
CID Equity Partners

Donald J. Hall
Chairman of the Board
Hallmark Cards, Inc.

Fred W. Lyons, Jr.
Chairman and CEO
Marion Merrell Dow Inc.

Morton I. Sosland
Chairman
Sosland Publishing Company

Hugh J. Zimmer
Chairman and President
Zimmer Development Company

4200 SOMERSET, SUITE 101, PRAIRIE VILLAGE, KANSAS 66208, (913) 649-1771, FAX (913) 649-2125

TODAY'S SBIC:
NEW DESIGN, RENEWED COMMITMENT

THE CASE FOR THE SBIC PROGRAM

THERE IS STILL A SOLID NEED IN TODAY'S MARKET FOR SBIC FINANCING.

- IN 1994, SMALL BUSINESS RECEIVED APPROXIMATELY $1 BILLION IN CAPITAL FROM SBICs. (EXHIBIT A.)
- AVAILABILITY OF CAPITAL IS A KEY INGREDIENT IN THE SUCCESSFUL GROWTH OF SMALL BUSINESS (EXHIBIT B), THIS NEED IS NOT BEING MET (EXHIBIT C).

THERE ARE MILLIONS OF SMALL BUSINESSES: 3.6 MILLION QUALIFY AS SMALL BUSINESS CONCERNS, WITH NEW SMALL BUSINESSES BEING CREATED EVERYDAY. CONVENTIONAL SOURCES OF CAPITAL DON'T DO THE JOB.

- THE SBIC PROGRAM FILLS A NICHE IN THE PATIENT CAPITAL NEEDS OF SMALL BUSINESS LARGELY IGNORED BY COMMERCIAL BANKS, LARGER VENTURE CAPITAL FUNDS AND OTHER INTERMEDIARIES OR CAPITAL PROVIDERS.

- INVESTMENT BANKS DON'T SERVE THIS NICHE BECAUSE COMMISSIONS ARE TOO SMALL AND THEREFORE FRUSTRATE ACCESS BY SMALL BUSINESS TO THE PUBLIC CAPITAL MARKETS.

- BANKS AND INSURANCE COMPANIES IN MOST REGIONS OF THE COUNTRY HAVE VIRTUALLY CEASED SUPPORT TO SMALL PIONEERING COMPANIES. BANKS PROVIDE SHORT-TERM WORKING CAPITAL, NOT LONG TERM PATIENT FINANCING.

- MOST PRIVATE NON-SBIC VENTURE FIRMS MANAGE $100 MILLION PLUS IN CAPITAL, AND THEREFORE NEED TO MAKE LARGER INVESTMENTS THAN REQUIRED BY MOST SMALL BUSINESS CONCERNS. THE AVERAGE INVESTMENT SIZE OF NON-SBIC VENTURE FIRMS IS $2.0 MILLION. THE AVERAGE INVESTMENT SIZE OF SBICs IS $500 THOUSAND, i.e. SBICs INVEST IN A GREATER NUMBER OF SMALL BUSINESSES THAN NON-SBIC VENTURE FIRMS (EXHIBIT D).

SBICs INVEST IN A LARGE NUMBER AND BROAD SET OF BUSINESSES LOCATED THROUGHOUT THE UNITED STATES.

- SBICs HAVE COMPLETED 100,000 FINANCINGS SINCE 1958.
- 78% OF SMALL BUSINESSES FUNDED BY SBICs ARE NON-TECHNOLOGY BASED BUSINESSES (EXHIBIT E).
- OVER 50% OF SMALL BUSINESSES WERE LOCATED ON "MAIN STREET, USA," IN AREAS OTHER THAN BOSTON, NEW YORK OR SILICON VALLEY, THE PLACES WHERE NON-SBIC FIRMS HAVE TRADITIONALLY CONCENTRATED THEIR INVESTMENT ACTIVITY (EXHIBIT F).

SBICs HAVE AND CONTINUE TO FULFILL THE PUBLIC POLICY OBJECTIVE.

- SBIC INVESTMENTS CREATE JOBS (EXHIBIT G).
- SBIC INVESTMENTS GENERATE TAX REVENUE (EXHIBIT G).
- SBICs PLAY A BROADER ROLE IN REGIONAL ECONOMIC DEVELOPMENT.

SINCE 1992, THERE HAVE BEEN FEWER IF NO MAJOR PROBLEMS WITH THE ADMINISTRATION OF THE PROGRAM.

- NEW TOP MANAGEMENT AT THE INVESTMENT DIVISION IS BUILDING A TEAM THAT CAN ADMINISTER THE PROGRAM.
- A NEW, RIGOROUS DUE DILIGENCE REVIEW OF AN SBIC's PROSPECTIVE MANAGEMENT IS NOW PRACTICED, EVIDENCED BY THE DENIAL OF 28 RECENT APPLICATIONS REPRESENTING $243 MILLION IN PRIVATE CAPITAL.
- NEW PRIVATE CAPITAL REQUIREMENTS PROVIDE SUFFICIENT WORKING CAPITAL TO SUSTAIN TODAY'S SBICs DURING THE PERIOD BEFORE ITS INVESTMENTS BEGIN TO PRODUCE RETURNS (EXHIBIT H).
- THE NEW SECURITY SOLVED THE PROGRAM'S FUNDAMENTAL FLAW, i.e. THE FUNDING "MISMATCH" (EXHIBIT H).
- NEW REGULATIONS IMPOSE A HOST OF "BEST MANAGEMENT" PRACTICES WHICH WILL PRECLUDE THE "RISKS" ASSOCIATED WITH THE PREVIOUS REGULATORY SCHEME.

THE NEW PROGRAM LINKS PRIVATE CAPITAL AND PROFESSIONAL MANAGEMENT WITH SUPPLEMENTAL FINANCING, ADDING TO A STRONG BASE OF SUCCESSFUL SBICs.

GOVERNMENT SHOULD BE INVOLVED IN THE NEW SBIC PROGRAM BECAUSE THE PUBLIC POLICY OBJECTIVES ARE SIGNIFICANT.

- THE PROGRAM DIRECTS A SIGNIFICANT FLOW OF PATIENT CAPITAL TO THE SEGMENT OF BUSINESS WHICH WOULD OTHERWISE NOT RECEIVE IT. SBIC CAPITAL INVESTMENT IS LESS VULNERABLE TO CYCLICAL PATTERNS THAN CONVENTIONAL SOURCES.

- THE PROGRAM CREATES JOBS, GENERATES TAX REVENUE AND PROVIDES REGIONAL ECONOMIC DEVELOPMENT BENEFITS.

- THE PROGRAM, AS CURRENTLY STRUCTURED, WOULD PAY FOR ITSELF AND PRODUCE A PROFIT FOR THE GOVERNMENT.

THE SBIC INDUSTRY HEARS THE CALL FROM CONGRESS TO BALANCE THE BUDGET BY 2002 AND IS WORKING WITH THE MEMBERS OF THE REVELANT COMMITTEES TO IDENTIFY WAYS TO ACCOMPLISH THAT OBJECTIVE, SUCH AS:

- REDUCING THE COST OF ADMINISTERING THE PROGRAM WHILE KEEPING IT WITHIN THE CURRENT GOVERNMENT FRAMEWORK; AND
- MOVING THE PROGRAM OUTSIDE THE GOVERNMENT TO BE OPERATED BY A PRIVATIZED ENTITY.

THE OBJECTIVE OF BOTH APPROACHES IS TO CONTINUE THIS MUCH NEEDED PROGRAM BUT ELIMINATE THE NEED FOR DIRECT ANNUAL FEDERAL FUNDING.

EXHIBIT A.

SBICs PROVIDE CAPITAL TO SMALL BUSINESSES, FILLING AN UNDERSERVED MARKET NICHE.

SBIC PROGRAM INVESTMENT SUMMARY
1985-1994

YEAR	# OF INVESTMENTS	INVESTMENT $
1985	2,756	$434,551,502
1986	2,575	$475,851,450
1987	2,522	$537,935,675
1988	2,227	$514,408,552
1989	1,875	$542,381,002
1990	1,334	$545,554,585
1991	1,035	$354,197,841
1992	787	$395,575,127
1993	985	$754,987,553
1994	1,105	$903,713,032
TOTAL	17,284	$5,599,590,120

Source: U.S. Small Business Administration, 1994 figures are annualized 9 month numbers.

EXHIBIT B.

AVAILABILITY OF CAPITAL IS A KEY INGREDIENT TO THE SUCCESSFUL GROWTH OF SMALL BUSINESS.

PERCENTAGE OF ARTHUR ANDERSEN/NSBU SURVEY RESPONDENTS NAMING THE FOLLOWING AS ONE OF THE THREE MOST SIGNIFICANT CHALLENGES TO THE GROWTH AND SURVIVAL OF SMALL AND MID-SIZED BUSINESSES.

CHALLENGE	PERCENT
RECESSIONARY ENVIRONMENT/ECONOMY	52%
HEALTH CARE INSURANCE BENEFITS	40%
REGULATORY BURDENS	36%
FEDERAL TAXES	35%
LACK OF AVAILABLE CAPITAL	30%
LABOR COSTS	29%
STATE AND LOCAL TAXES	24%
LACK OF QUALIFIED WORKERS	13%
OTHER	11%
COST OF TRAINING WORKERS	8%
FOREIGN COMPETITION	5%
NO MAJOR CHALLENGE	3%

Source: "Survey of Small and Mid-Sized Businesses Trends for 1993", conducted by Arthur Andersen's Enterprise Group and National Small Business United.

EXHIBIT C.

THE CAPITAL NEEDS OF SMALL BUSINESS ARE NOT BEING MET.

PERCENTAGE OF ARTHUR ANDERSEN/NSBU SURVEY RESPONDENTS REPORTING THEY HAVE CAPITAL NEEDS THAT THEY HAVE BEEN UNABLE TO FULFILL (BY SIZE).

SIZE OF SMALL BUSINESS	PERCENTAGE
0-19 EMPLOYEES	40%
20-99 EMPLOYEES	24%
100-499 EMPLOYEES	17%

Source: "Survey of Small and Mid-Sized Businesses Trends for 1994", conducted by Arthur Andersen's Enterprise Group and National Small Business United.

EXHIBIT D.

SBICs PROVIDE CAPITAL TO SMALL BUSINESSES, FILLING AN UNDERSERVED MARKET NICHE.

SBICs TEND TO DO SMALLER TRANSACTIONS THAN PRIVATE VENTURE CAPITAL FIRMS

SBIC VS. NVCA AVERAGE INVESTMENT SIZE
ANNUAL AVERAGE 1981-1990

YEAR	SBICs	NVCA
1981	$132,584	$1,450,000
1982	$146,319	$1,550,000
1983	$167,569	$1,950,000
1984	$154,464	$1,900,000
1985	$157,678	$1,850,000
1986	$177,892	$2,200,000
1987	$213,297	$2,400,000
1988	$275,891	$2,500,000
1989	$289,116	$2,400,000
1990	$409,194	$1,900,000

Source: Estimates from Investment Advisory Council Report to SBA - March1992 and SBA Data.

EXHIBIT E.

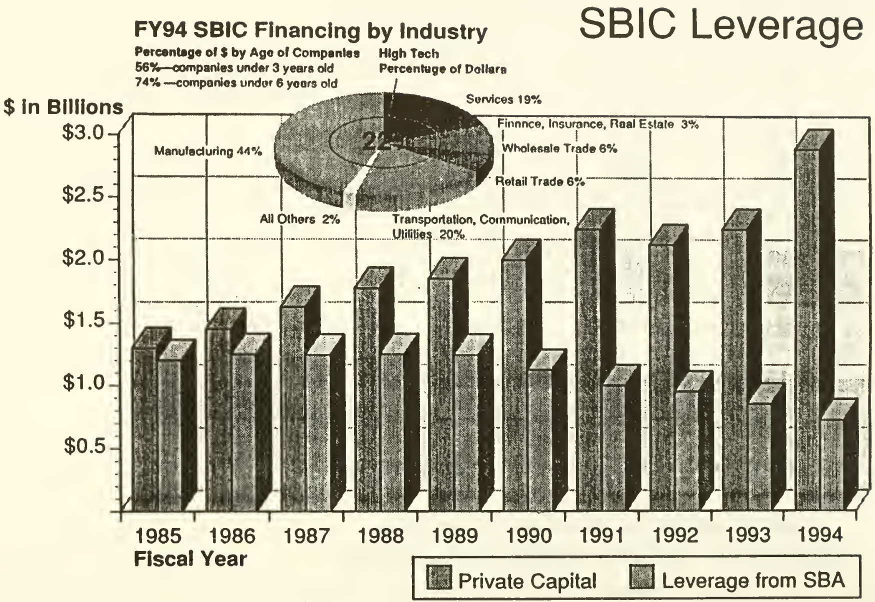

SBIC Leverage
FY94 SBIC Financing by Industry
Percentage of $ by Age of Companies
56%—companies under 3 years old
74% —companies under 6 years old
High Tech
Percentage of Dollars
22
Services 19%
Finnnce, Insurance, Real Estate 3%
Wholesale Trade 6%
Retail Trade 6%
Transportation, Communication, Utilities 20%
All Others 2%
Manufacturing 44%
$ in Billions
$3.0
$2.5
$2.0
$1.5
$1.0
$0.5
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
Fiscal Year
Private Capital
Leverage from SBA

EXHIBIT F.

SBICs PROVIDE CAPITAL TO SMALL BUSINESSES, FILLING AN UNDERSERVED MARKET NICHE.

SBICs HISTORICALLY HAVE SERVED A BROADER GEOGRAPHICAL BASE THAN THE PRIVATE VENTURE CAPITAL INDUSTRY AS EVIDENCED BELOW

INVESTMENTS BY REGION REPORTED BY SBICs AND NVCA

CUMULATIVE FOR 1986-1990

REGION	SBICs	NVCA
NORTHEAST	13.9%	35.2%
WEST COAST	17.1%	33.7%
MIDWEST	19.5%	9.1%
SOUTHWEST	14.5%	9.0%
MID-ATLANTIC	21.9%	7.7%
SOUTHEAST	13.0%	5.2%
	100.0%	100.0%

Source: Investment Advisory Council Report to SBA - March1992

EXHIBIT

BENEFITS PRODUCED BY THE SBIC PROGRAM
NASBIC Portfolio Company Data Base

COMPANY	YEAR SBIC INVESTED	NUMBER OF EMPLOYEES When SBIC Invested	NUMBER OF EMPLOYEES 1990	SALES (000s) When SBIC Invested	SALES (000s) 1990	AFTER TAX PROFITS (000s) When SBIC Invested	AFTER TAX PROFITS (000s) 1990	CUM. FEDERAL TAXES PAID (000s)
ACTION AUTO RENTAL INC.	1984	4	1,199	$ 456	$ 98,456	$ (6)	$ 6,572	$ 9,795
APPLE COMPUTER INC.	1977	63	14,500	773	5,284,013	42	454,033	1,232,010
BEAUTICONTROL COSMETICS	1986	131	300	9,524	52,786	1,364	6,060	10,927
CALLAWAY GOLF CO.	1985	29	200	1,974	20,500	(1,009)	2,450	521
COMPAQ COMPUTER CORP.	1983	155	9,700	257	3,600,000	(4,649)	430,000	558,500
COSTCO WHOLESALE INC.	1983	5	9,500	0	4,132,600	0	49,200	45,000
CRAY RESEARCH INC.	1972	12	4,708	58	784,700	(3)	89,045	445,410
ENCLEAN INC.	1985	53	1,177	1,700	52,669	(273)	2,097	2,168
FEDERAL EXPRESS CORP.	1973	516	64,700	6,759	7,015,069	(4,460)	115,764	748,350
FILENET CORP.	1982	26	653	$112	83,100	(262)	2,990	5,000
INTEL CORP.	1969	218	21,700	565	3,126,633	(1,687)	391,021	787,250
LANDMARK GRAPHICS INC.	1984	16	500	31	56,707	(609)	5,633	6,072
MICROTEK MEDICAL INC.	1984	100	257	2,435	15,270	637	767	1,417
NETWORK SYSTEMS CORP.	1975	35	1,080	3	144,789	(638)	17,327	59,990
PAGING NETWORK INC.	1981	212	1,260	16,000	107,000	(2,600)	(13,604)	1,000
PRO-NET INC.	1983	7	225	125	15,000	(175)	400	350
RAILTEX INC.	1980	7	200	700	21,500	(17)	1,500	3,700
RAMSAY HEALTH CARE	1983	1	2,071	0	116,000	0	5,800	10,000
SHOREWOOD PACKAGING CORP.	1986	430	750	43,360	127,136	3,049	15,000	22,304
STAPLES, INC.	1986	44	1,700	79	310,000	(693)	5,500	6,200
SYMBOL TECHNOLOGIES INC.	1976	4	1,600	0	222,346	0	18,966	30,100
TELEPHONE ELECTRONICS	1977	105	650	2,767	66,453	400	1,222	6,655
THE WHOLESALE CLUB	1984	169	2,782	11,600	609,665	(1,138)	6,146	1,720
UNIVERSAL HEALTH SERVICES	1979	140	10,200	20	587,000	(40)	9,000	7,500
VERTEX COMMUNICATIONS	1985	175	375	16,217	37,502	(464)	1,945	2,855
		2,646	152,207	$ 115,548	$26,647,104	($ 13,731)	$ 1,551,246	$4,037,015

EXHIBIT H.

ACCESS
TO CAPITAL

SBA Today's SBIC

Before

Financing of Small Companies
$449 million

New Private Capital Licensed
$24 million

Private Capital per New Licensee*
$2.4 million

Cost to Taxpayer
$12 million

SBA Leverage
debt instrument only

*excluding bank subsidiaries

1992

After

Financing of Small Companies
$948 million

New Private Capital Licensed
$520 million

Private Capital per New Licensee*
$15 million

Cost to Taxpayer
$34 million

SBA Leverage
flexible debt or equity instrument

*excluding bank subsidiaries

1994

Riojas
ENTERPRISES, INC.

8819 Long
Lenexa, KS 66215

(913) 894-1200
Fax: (913) 894-2468

FIELD HEARING
U.S. House of Representatives
COMMITTEE ON SMALL BUSINESS

April 27, 1995

Testimony of ANA RIOJAS

SBA Invested $12,529 - Rate of Return 9,961%

Riojas Enterprises Inc. aka Able Employment received training in the amount of $12,529 from SBA in 1993 and 1994. The following statistics resulted from SBA's investment in a minority woman owned business.

**SBA Investment Through the 7(j) Program	$ 12,529
**50 Jobs Created at an Average Hourly Rate of $8.00 Based on 2,080 Hours per Worker	$ 832,000
**Employee Contribution to SSA/Medicare	$ 63,648
**Employer Matched Contribution to SSA/Medicare	$ 63,648
**Employer's Contribution to Federal Unemployment Insurance (.08)	$ 66,560
**Employer's Contribution to State Unemployment Insurance (.0324)	$ 26,957
**Increase in Riojas/Able Revenue	$1,248,072
**Rate of Return on SBA's $12,529 Investment	9,961%

90-701 - 96 - 9

As a first generation US citizen born of Mexican parents, I was unfamiliar with what was necessary to create, sustain and grow a successful business in today's climate of dynamic competition.

The Small Business Administration provided me, Ana Riojas, President and founder of Able Employment/Riojas Enterprises, with assistance in 1993 and 1994 in the amount of $12,529. These funds provided me with training in accounting systems, proposal preparation, cost analysis and business management at the Tuck School of Business of Dartmouth College. The Minority Business Executive Program at the Tuck School provided problem solving techniques and strategies which enabled our company to grow without endangering its financial stability.

In less than two years, fifty (50) additional jobs were created. ABLE/Riojas revenue increased by 227%.

The debate seems to be heating up whether the term "disadvantaged" is appropriate with respect to certain groups of people, and whether minority set asides, 8(a) programs or Affirmative Action programs should be abolished.

I learned about cultural bias at a very young age. There was a large white line that divided our playground. The Mexican children were not allowed to cross that line to speak to the white children, to study with them, or to play with them.

Children are the most vulnerable and innocent victims of cultural bias. They are at a time in their lives when a world of possibilities stretches before them. They are also at a time in their lives when self-esteem is developing or being crushed by a world that wants to hold them back for its personal gain.

The inferred message from the playground was that we were to forget who we were and to pretend to be like "the normal" children. We were to abandon the language and traditions of our families for the sake of conformity. Some of us did try to mainstream, although no one was convinced we were like them. At any moment, without warning, we were reminded that we were living a charade.

Rather than embrace our cultural differences, we, in the United States continue to draw lines that divide our communities and create barriers that many minority, small businesses find impossible to overcome.

These experiences inspired me to begin my own business. Seven years ago, I founded Able Employment with the goal of creating the best professional services agency in Kansas City. I invited people of all race, religion and age to join me in this challenge on the condition that they perform their jobs to the best of their abilities in a courteous and professional manner. Our original work force comprised approximately 20% Hispanics, 25% African Americans, 50% Caucasians and 5% Asians.

We quickly learned that if given the opportunity, proper training and counseling, most people, regardless of race, religion, age or gender, possessed a strong work ethic and remained loyal to their employer. The key was to give people dignity by providing them with jobs that pay a better than fair wage, and recognized them as unique individuals, not disadvantaged or disenfranchised second class citizens.

There remain many obstacles for small, minority businesses to overcome in the private sector. For many supervisors with hiring authority, "minority equals inferiority." Although much publicity has been given to major corporations because of their "perceived willingness" to provide business to minority vendors, the reality is that very little has changed. One such major corporation made the following comment to our company after encouraging us to present our services to their management team.

> "Well, that certainly is one of the finest presentations I have heard. And your sales manual and proposal are very attractive and professional. However, our company has been working with the same temporary employment service for over twenty years. If we become dissatisfied with them we will be happy to consider you at that time."

This obvious patronizing had to be swallowed as part of doing business.

When ABLE is given an order, very often it is only for low paying jobs. These jobs do not carry the profit margin of the higher paying positions, which makes growth and cash flow extremely difficult.

Recently, an evaluator for the State of Missouri wrote the following comments regarding ABLE's "expertise."

> "The expertise of the personnel staffing the ABLE office is very heavily emphasized for the Hispanics and minorities. Numerous awards and achievements have been granted. They are definitely minority business oriented. It is fantastic to promote the minorities, but I wonder if adequate time can be spent on maintaining a viable contract...Also, I question whether the staff will be devoting more time to the hiring of minorities and unintentionally discriminate against non-minorities. The resumes of the personnel at ABLE do indicate they promote jobs for any one (sic) with emphasis on minorities and Hispanics.
>
> The resumes of the personnel identify management and ownership backgrounds, with no clerical experience. I question whether a firm who only knows management can understand the problems and frustrations associated with clerical placement. I feel two points should be deducted."

Remember when one of the major reasons for not awarding contracts to minority businesses was because they did not have the "management experience" to run a professional corporation? Minority vendors are accused of lack of professionalism, lack of product knowledge, lack of persistence and not performing to the client's specifications.

To be disadvantaged means that if one minority vendor either misses a deadline, has one widget that does not work, or does not perform according to specifications, then the whole minority vendor community is condemned.

To be disadvantaged means that another set of standards is used with respect to the performance of a minority person or

business. Those standards are rigid and almost impossible to maintain over a period of time.

Minority buyers in major corporations also have a very difficult role. They, too, are held to an impossible standard of performance. If they provide business to a minority vendor, and that vendor fails in one of those standards, then the minority vendor is judged as having failed to perform in an appropriate manner. For this reason, many minority buyers are reluctant to issue minority contracts.

Small minority and woman owned businesses have a difficult time competing against large corporations for contracts. It is almost impossible to beat major corporations who have professional proposal writers, legal staffs, multiple locations, advertising firms to design their materials and budgets that support any required resources.

In addition, large corporations often have the lowest bid due to their economies of scale. Agencies and corporations awarding contracts will often make their decisions based on the bottom line, the lowest bid. And they cannot be blamed for that.

Please note that I said it was "almost impossible" to beat these companies. It can be done. Programs like the Small Business Administration help to level the playing field by providing resources to small businesses.

So the question remains, how can minority and women owned businesses compete with the same companies that are denying them regular employment opportunities? Ironically, the free enterprise system resolved this problem for our company. Because of increased foreign and domestic competition, companies had to find ways to lower their labor costs and still maintain their high standards of production and quality.

Our strategy to accommodate this changing economy was to provide employees who wanted to be productive, in order to become self-sufficient and feel good about themselves. We also determined that in order to foster a successful partnership between our company, our clients and our workers, all three groups had to benefit. This meant that our workers had to be paid a reasonable wage, our client's labor cost had to be reduced through increased profitability and our company had to make a profit.

From the start, small businesses were the most receptive to our philosophy. These companies were concerned with bottom-line profitability. They asked us to send them highly productive individuals with good work habits and low absenteeism. They did not specify race, religion or gender. And we delivered...with the most diverse, effective work force they had ever seen.

It is not surprising that during the recession years of the 1980's and early 1990's large corporations in this country suffered through downsizing after downsizing, while many small businesses thrived. However, minority and women owned businesses continue to fail.

That is why I am here today, to provide testimony on behalf of the Small Business Administration. As a minority woman and a small business owner, I could not have realized my full potential without the help of the Small Business Administration. ABLE Employment/REI is grateful to the SBA for its support in providing us with the training necessary to allow a first generation American to be part of the Great American Dream. It would be a shame if others were not given the same opportunity. Ultimately, as our statistics demonstrate, everyone is affected.

Submitted by: Ana Riojas
Founder/President
Riojas Enterprises, Inc aka Able Employment
8819 Long
Lenexa, KS 66215

Santa Fe Optical Inc.
737 Mass.
Lawrence KS. 66044
(913) 843-6828

Feb. 10, 1995 I opened Santa FE Optical Inc. In Lawrence, Kansas. I had applied for an S B A 7A loan starting in August of 1994. When I opened my doors I used money from family and friends to get my start. I could not wait any longer for a loan from the S B A, as the location of business was crucial and I needed to secure the building.

In April 1995 I finally received a loan from the S B A. The loan was a fraction of what I had originally ask for [from $60,000.00 to $25,000.00. My experience started with a bank in Kansas City and concluded with Kaw Valley Bank in Topeka, KS. I was twice turned down at the district level and went to higher level-- [the regional office for help]. Here I found the service to be excellent and was greatly helped by Ms. Linda Ruche. I could call her when problems stalled my loan and she seemed to get things back on track. I truly believe she and the regional office helped me more than any level of the S B A . I have only high regards for Ms. Ruche and her concern for me.

I do believe there is a definite demand in the small business community for the S B A in acquiring capital, as banks seem reluctant to loan to small business.

Since this is my first venture with the S B A. I have had both positive and negative feelings about my loan acquisition experience. I feel too much time has elapsed before I actually received the loan. I can not say I would not have opened my business with out an S B A loan because I did.

I believe some of the request and restrictions are too stiff -- [example I was requested to have a $25,000.00 life insurance policy before getting my loan]. I was not given enough working capital $5,000.00 out of $25,000.00 this is where as a small business owner. I need more money!!

I think changes in the way 7A is handled will help make it more simple to understand. Have the bank or S B A explain the loan and explain it thoroughly to the applicant.

Thank You!

Carolyn Salyer

Carolyn Salyer

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS

JOHNSON COUNTY COMMUNITY COLLEGE
OVERLAND PARK, KS

APRIL 27, 1995

TESTIMONY
BY
DERYL K. SCHUSTER
PRESIDENT, CENTRAL DIVISION
EMERGENT BUSINESS CAPITAL, INC.
121 WEST DEWEY, SUITE 210
WICHITA, KANSAS 67202
PHONE (316)263-1001
FAX (316)263-1771

Madam Chairman, distinguished representatives and staff...

Thank you for this opportunity to discuss the U.S. Small Business Administration's 7(a) general business loan program. And thank you for bringing the legislative process to the real world where one can see first hand the ramifications of your labors and decisions on Capital Hill. First, please permit me to outline some credentials. I am Vice Chairman and board member of the National Association of Government Guaranteed Lenders (NAGGL) organization. This year, I am in charge of governmental affairs, needless to say, a rather challenging responsibility. In this role, I represent a national membership that, combined, makes approximately 75% of all 7(a) loans made in America. The company I work for, Emergent Business Capital, Inc, is one of SBA's largest lenders. Both in dollar volume and in number of loans, our company has ranged between number 7 and number 15 in the country. We are a non-bank lender holding an SBA issued Small Business Lending Company license which only permits us to make 7(a) loans, so 100% of our company's efforts and resources are devoted to making long term loans to small businesses. In 1994, our company received the Kansas and Region VII Financial Service Advocate of the Year Awards from the SBA for the quality and effectiveness of our 7(a) lending activity. Ten years ago in 1984, as a bank lender, our 7(a) lending team received the same state and regional awards, plus that year we were recognized as the National Award winner. So, you can see I have a long term prospective as a private sector 7(a) lender both as a banker and a non-bank 7(a) lender. In the late 1960s my banking career was interrupted to accept presidential appointments as SBA District and Regional

Director. During this time I served four years as District Director in Wichita and four years as Regional Director in Kansas City. In 1976, I returned to the banking industry specializing in financing small businesses. My career includes service as Past President of the Kansas Bankers Association and in leadership positions on several American Bankers Association (ABA) groups, its governing council, government relations council, chairing the ABA's Small Business Banking Committee, and one of the Small Business Financing Conferences. I have served on SBA district, regional, and national advisory councils. And in the past, I served a term on the U.S. Chamber's Small Business Council. The good Lord willing, in June, I will have been a delegate to all three White House Conferences on Small Business. I am Chair of the Kansas delegation to the 1995 White House Conference. All of these experiences have given me a rather broad prospective of SBA programs as well as the financial needs and credit impediments experienced by small businesses. Further, from painful experience, I can address, with authority, the regulatory attitude toward long term loans to small businesses, especially SBA loans.

Back in the 1950s and early 1960s, SBA primarily made direct loans. Before the Agency made a loan, the borrower would have to produce two or more decline letters from private sector lenders so the Agency truly became known as the lender of last resort. But about 30 years ago, SBA wisely started involving private sector lenders in the loan process to fund and service loans. Private sector involvement has consistently been expanded by SBA in the administration of the 7(a) loan program. Under the Agency's Preferred Lenders Program (PLP), the lender independently makes the credit decision with SBA only approving the eligibility of the loan. Even in the event of default, the private sector lender is in total command of the liquidation. Due to the heavy involvement of the private sector in the underwriting, closing, servicing, and liquidation, when necessary, losses under the 7(a) loan program have consistently dropped to a low 1.27% in fiscal 1994. Yet, most bank regulators continue to apply the philosophy that something is wrong with a small business loan if there is SBA involvement. Bank examiners just do not like "long term" business loans. It is well known that small business lending carries with it risk, especially loans to new or fledgling small businesses. In fact, that was part of the motivation when President Eisenhower and his Republican controlled Congress wisely established the SBA to help assist and protect small businesses in America, so that our free competitive enterprise system might be preserved. Large businesses have no trouble being

heard by people in Washington D.C.. Large businesses have access to capital markets. Small businesses do not! Therefore, that was one of the SBA's original mandates -- to help provide long term financing for small businesses. Every 7(a) loan made carries a confirmation by the lender that the business loan would not be made under the terms and conditions were it not for SBA's partial guaranty. In the defense of regulators and lenders, there are many reasons why small business lending is inherently risky which explains, in part, why, without the SBA's partial guarantee, these loans would not be made. In addition to prohibitive regulatory and lender policies, the reluctance to lend to small businesses is as varied as are lending opportunities. Most every small business loan is different in purpose, financial strength, collateral, management expertise, equity, product quality, business location, competitive factors, etc., etc. Even factors beyond the control of the borrower and/or the lender discourage small business lending. Some of these factors include; labor strikes, liberalized bankruptcy laws and its growing acceptance, environmental risks, governmental actions such as base closings, embargoes, interest rate increases, mandated benefits, etc.. Yes, there are many reasons why a private sector lender will not make long term small business loans without something like the 7(a) loan program.

One should not lose sight of the fact that a high percentage of our citizens are employed by small businesses and, in recent years, that is where our nations job growth has come from. And, I submit that, at a time when the public demands and Congress accommodates less government, is the very time that the 7(a) program should be expanded! The small business community must be more robust than ever before, if the private sector is to create the jobs that are going to be needed as government downsizing occurs. And in addition to the common sense of the issue, numerous studies have proven, over the years, that the 7(a) loan program creates more tax revenue by several times, than any government cost. In fact, if NAGGL's proposals presented to this committee January 25, 1995 were implemented, the private sector would put up 80 dollars for every one dollar appropriated by Congress to fund this long term loan program. If the Administration's recent proposals are adopted, Congress would have to appropriate nothing. Our industry has not yet taken a position on the Administration's proposals because, in some respect, their proposals may have gone father than is necessary to get to a zero subsidy or self sustained program. By going further than necessary, borrower and lender costs may be increased more than is necessary. If this happens it could retard the use of this job and revenue creating program. The purpose of this program is economic development and job

creation. This objective should not be retarded by more than necessary costs or by low program authorization ceilings that has plagued the 7(a) program for years. If the program goes to a zero subsidy, it should not be necessary to annually fight for an adequate program ceiling. As has been needed for years, the maximum guaranty should be raised to one million dollars from the present $750,000 level. If this increase is implemented the 7(a) program authority would need to be increased to at least $14 or $15 billion dollars. Again, the objective of this program should be creating jobs and generating tax revenue at every level of government as the 7(a) loan program does! This should not be hampered by loan program authority. Without a doubt, this is one government program that should be expanded and emulated. The most hard core budget cutters should be leading the charge!

Since 1953 when SBA was established, more than 600,000 long term loans have either been made or guaranteed by SBA totalling approximately $80 billion dollars. Congress should reflect on what our nation would be like today if those many businesses that got their start or were able to expand, had been unable to do so if the 7(a) loan program had not existed. These businesses, their owners, employers, vendors, suppliers, etc. pay taxes. Where would their millions of employees be working had this program not existed? Some suggest a reduction in the capital gains tax will eliminate the need for the 7(a) loan program. Especially in their early years of existence, the typical SBA borrower would attract little interest from sophisticated investors due in part to the lack of dramatic growth potential. While important, a reduction in the capital gains tax would not eliminate the need for long term loans for the typical small business SBA borrower in America! Still others advocate the creation of another Government Sponsored Enterprise (GSE), such as Aggie Mae or Ginnie Mae to facilitate the funding of small business lending in lieu of the 7(a) loan program as it is currently administered. Such a concept may work for a tiny percentage of SBA qualifying credits but the front end costs to establish the GSE would be excessive and there would still be the need for something like the 7(a) loan program to handle the vast majority of SBA 7(a) loans. Unlike residential real estate loans, small business loans and the related risk cannot be put into a conforming box -- every loan is different!

As you know, NAGGL has proposed a maximum 75% loan guaranty on all 7(a) loans, regardless of size, up to the maximum guaranty level. This would lower the program's cost, simplify the program's explanation, save SBA processing resources by the resulting expanded

utilization of the PLP program, and provide adequate lender exposure. Many NAGGL members continue to express concern about the impact that the Agency's "Low Doc" loan program could have on the overall cost of the 7(a) program. Often in the past, when the Agency has implemented "special" loan programs, especially those with arbitrarily established low dollar amount limits, increased losses have resulted. It is too early to effectively evaluate this program but lowering the guaranty from 90% to 75% will certainly result in more conservative lender judgments.

As Agency resources are trimmed, it will be necessary to transfer even more of the loan administration process to the private sector. The Agency has already implemented PLP expansion. This positive move should be accompanied by expanded audit and review functions to assure continued overall program quality. NAGGL has proposed this for sometime and suggests that the cost associated with individual reviews be passed along to each PLP lender, as is the cost of regulatory reviews.

The growing usage of SBA's 7(a) program by both small business borrowers and private sector lenders provides the best way to measure the program's effectiveness and continuing need. It was the small business community that led our nation's recent economic recovery and the expanded usage of the 7(a) loan program contributed significantly. Attached to my testimony are letters from the American Bankers Association (ABA) and the National Federation of Independent Business (NFIB) attesting to the need for the 7(a) loan program. The ABA has the 7(a) program on its legislative "priority list." The NFIB says they "strongly support this program" and that "this program is one we (NFIB) will fight to preserve." I think every member of Congress knows if there wasn't great need for the 7(a) program, these organizations known to advocate fiscal responsibility and less government would not express such support! The ABA knows without an SBA guaranty its member banks simply cannot make large volumes of long term loans, the kind most needed by small businesses, when their funding sources are short term deposits. Bankers know it is not wise to use short term deposits to make long term loans. Obviously, this creates a capital void for small businesses who need longer term financing. The SBA's 7(a) program permits a lender to help fill this capital void. The NFIB is actively participating in state events leading to the 1995 White House Conference on Small Business. Therefore, they know that the need for capital has been one of the dominant issue areas at most all state events. The Kansas delegation to the national conference next June will

be joining may other states in advocating the continuation of a viable 7(a) loan program administered by an independent SBA.

Following are three issues adopted by the Kansas delegation related to the SBA and the needs of small businesses in America:

- Congress should maintain and strengthen the "Independent" agency role of the U.S. Small Business Administration to assure the continued source of Advocacy, Capital and Procurement opportunity for small business in America and to provide a more effective voice for America's small business community, Congress should pass legislation to permanently elevate the SBA Administrator to Cabinet status and to full membership on the National Economic Council.
- In the interest of economy and efficiency, Congress should consolidate the future administration of all commercial loan programs currently spread throughout the Federal Government into the SBA's private sector administered loan programs and Congress should further provide needed funding and loan guarantees so that the important and necessary loan programs of the U.S. Small Business Administration might be maximized so that our nation's economy will be strengthened.
- Working through the SBA, Congress should develop a funding mechanism and consulting/technical assistance option to permit and assist in small business compliance with EPA regulations.

As you are aware, a December 1994 GAO report, prepared at the request of the House Budget Committee, noted that the SBA 7(a) program has several key attributes worthy of continued reflection, including:

- In 1994, 24% of SBA loans went to new businesses.
- The average maturity of SBA loans approved in FY 1994 was almost 11 years. Non-SBA commercial loans one year and over had an average maturity of less than four years.
- SBA loan programs funded 60% of all small business loans made in 1994 with maturities of over one year.
- The average size of a business approved for an SBA loan in FY 1994 was 16 employees.

- Half of the SBA loans had fewer than seven employees.
- Only about 1 in 400 loans were for businesses with 250 employees or more.
- SBA loans are the primary means by which banks access the secondary market for small business loans. About $2.1 billion in SBA 7(a) loans were sold into the secondary market in 1994 which leveraged capital available to finance long term small business loans. For many SBA lenders, selling loans on the secondary market is a key part of their strategy for preserving scarce capital and making more loans.

Without the involvement of private sector lenders, the SBA 7(a) program would be non-existent. The $500,000 ceiling imposed by SBA in January 1995 is reported to have had a significant negative impact on many of the nation's most active SBA lenders. Major 7(a) lenders have built the kind of infrastructure necessary to professionally administer their 7(a) program. If the $500,000 ceiling is not lifted soon, I fear lenders will start downsizing which could negatively effect the high quality of the program. But, even more important is the negative impact on many small businesses that are being injured by this ceiling. Everyday the ceiling is in place, our nation's economy is being denied jobs, technology and tax revenue. I am confident that the committee would find 7(a) lenders and our borrowers willing to pay increased fees and experience less income if this program is returned to total viability. However, the program must continue to be affordable and able to be delivered profitably. For borrowers and lenders alike stability is needed in this program. If removing the program from the appropriations process will help accomplish stability, you will find much enthusiastic support. Actually, in my opinion, if Congress really understood the cost effective benefits of the 7(a) program (jobs, technology, tax revenue) they would want to keep borrower and lender costs as low as possible so that the small business community could find it easier to create the growing number of jobs that will be needed in America. However, before this issue is resolved I trust the Committee will consider matters raised in the attached memorandum from Tony Wilkinson, President of NAGGL, to Mr. John Cox of the Small Business Administration.

Madam Chairman and other members of the committee, I commend you for your past support of the SBA loan programs and for your good service to small businesses in general. Thank you for this opportunity to again come before this distinguished committee.

AMERICAN BANKERS ASSOCIATION

DONALD G. OGILVIE
EXECUTIVE VICE PRESIDENT

1120 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 663-5011

March 9, 1995

Mr. Deryl K. Schuster
President
Emergent Business Capital
Central Division
121 W. Dewey, Suite 210
Wichita, KS 67202

Dear Deryl:

It was good to hear from you. The ABA Government Relations Council, you will be pleased to know, voted to add supporting the 7(a) program to our priority list at its last meeting, and ABA is lobbying to maintain that program.

We are hoping you will come back to the banking industry soon!

Sincerely,

Don

Donald G. Ogilvie

NFIB
National Federation of Independent Business

March 10, 1995

Deryl K. Schuster
President
Central Division
121 W. Dewey, Suite 210
Wichita, KS 67202

Dear Mr. Schuster:

Thank you for your recent letter regarding the SBA's 7(a) loan guarantee program. It is very important for us to hear from our members and of their concerns.

As you mentioned, the NFIB has not included any literature on the 7(a) loan program in our 1995 White House Conference on Small Business materials. The issues included in our agenda are ones our membership indicated, through special polls, that were the most important to them. This does not mean we feel the SBA's 7(a) loan guarantee program is not worthwhile. We strongly support this program, and could not agree with you more in terms of its importance. While we feel there is a tremendous need for government down-sizing, this program is one we will fight to preserve.

Please be assured NFIB is fighting to protect your best interests and those of America's most endangered species -- small business. If you have further questions, please do not hesitate to contact our office.

Sincerely,

Jack Faris

Jack Faris
President

JF:ks

600 Maryland Ave. S.W., Suite 700 · Washington, DC 20024 · 202-554-9000 · Fax 202-554-0496
The Guardian of Small Business for Fifty Years

MEMORANDUM

To: John Cox

From: Tony Wilkinson

Date: April 24, 1995

Subject: SBA 7(a) program subsidy issues

The Administration's revised budget proposal for the SBA 7(a) program looks for borrowers and lenders to pay higher fees. As I commented at the briefing last week, I think SBA should review what contribution the Agency could make to the subsidy reduction effort. A critical component of the subsidy rate calculation is SBA's management of loan defaults and the recovery process.

Several NAGGL members have communicated to me that the recovery process on defaulted loans, handled by SBA, is slowing down. You reported to me that was one of the factors causing a reported decline in the recovery rate. You also reported that some SBA offices were liquidating PLP originated loans, which is in violation of PLP program requirements.

At the subsidy rate briefing last week, Doug Criscitello stated that "it appears that the recovery rate is not as good as the rate that had been used in previous subsidy calculations, but that the default rate had actually improved". I asked Doug why OMB chose to recognize a decline in the recovery rate, and at the same time, chose to ignore the improving default rate. From my view, OMB has opted to recognize only negative information so as to move the subsidy rate to the most conservative position possible. The Federal Credit Reform Act was not put in place to make conservative (more borrower-expensive) assumptions, but rather to disclose the cost of a credit program so elected officials make cost-benefit determinations.

As we consider legislation to modify the current SBA 7(a) program, I believe we need to have more facts about the default and liquidation processes at SBA. Specifically, I think we need to know such things as:

1. What is the default rate? This should be an easy calculation as loans either pay as agreed or they go into default.

2. Are there certain types of loans that default more often than others? This should be stratified by district offices to see if there are credit training issues that need to be adressed.

3. Are there underwriting changes that could be made to reduce defaults on certain kinds of loans?

4. How does SBA handle defaulted loans? Has the recovery process actually slowed down, as it has been reported? What steps could SBA take to speed up the recovery process?

5. Are SBA offices liquidating PLP loans? If so, this should be stopped immediately as it is the lender's responsibility to liquidate.

6. Can more of the liquidation process be moved to the private sector? For instance, all CLP originated loans could be liquidated by the originating lender. This would further leverage private sector resources, put less strain on SBA's shrinking resources, and managed appropriately, could significantly improve the recovery process.

7. In the private sector, when a loan defaults, it is put on non-accrual, or zero interest. Does the SBA put defaulted loans on non-accrual, or do they continue to accrue interest, worsening the recovery rate?

These are just a few ideas on needed information. A big picture issue yet to be resolved is what are the goals for the 7(a) program? Hopefully through the upcoming legislative deliberations, the 7(a) program goals can be clarified, the mission more defined, and we end up with a program that delivers a *consistent* source of *affordable* long-term capital for the nation's small businesses

Thanks for your considerations. Please call me at 405-377-4022 if you have any questions.

COMMENTS TO THE CONGRESSIONAL COMMITTEE ON SMALL BUSINESS
JOHNSON COUNTRY COMMUNITY COLLEGE
26 MAY 1995

INTRODUCTION

It is a pleasure to have the opportunity to discuss the problems of small business with you today. As a matter of introduction, I am Greg Shuey, President of TensorTech Corporation, a new start up business in Overland Park. In order to provide some insight as to why I have strong feelings regarding today's regulatory environment, I would like to preface my comments with my background which I believe you will see comes from both sides of the fence. I am a retired Air Force officer with 26 years of service. I served as a test and fighter pilot, as the System Engineering Manager for the Navy FLTSATCOM satellite program, as the Air Force Director of Security Engineering at Johnson Space Center for the Space Shuttle Program, and as negotiator for US Forces, Korea. I have started four small businesses, two in the U.S., one in Hong Kong, and one in Korea, the last of which assisted Fortune 500 and smaller U.S. companies in getting established and operating in the Korean climate. I, therefore, have a considerable appreciation for the laws, regulations and processes in both the public and private sectors.

BACKGROUND

I have recently returned after living ten years in Seoul, Korea and, as of last October, went through the process of setting up TensorTech as a Kansas company. TensorTech was created to locate or create new technologies and develop them into products with or for small manufacturing companies who do not have high powered engineering expertise or resources to find or exploit such technologies. With the manufacturing expertise of our venture partners and the market immediately available through their customers, we are able to jointly produce new products, quickly get them to market, and generate new revenue streams for both parties - a win-win situation which is often more powerful than developing products individually.

In the last seven months, we have filed a patent for our first proprietary product (the world's first high powered mathematics and software for compressing and expanding digital sound tracks), produced our first high tech electronic device under a joint venture with an Olathe firm (a digital crystal oscillator designed to compete with the Japanese), and are in the process of setting up two joint ventures, one with K.U. Medical Research Institute in telemedicine and another with a California medical research firm in new medical technologies. We are also developing two new products, one in high speed communications under a strategic alliance with a small Overland Park firm, and the other as a proprietary product in computer applications.

OBSERVATIONS

In the process of establishing TensorTech, I found it necessary to try and build a checklist of steps that I needed to take to ensure that TensorTech would comply with the plethora of laws and regulations levied on small companies. First, I should say that as a conservative Kansan, I elected to run TensorTech on a shoestring until revenues could fully support operations. My two employees, one a PhD and the other a PhD candidate, and I have therefore been working in three small independent basement laboratories since the company's inception. Nevertheless, I have found that Federal and State laws look upon us as a Fortune 500 company, if the paperwork and regulatory requirements which must be met by us are any indication of success.

Over the course of twelve months in setting up our business and seven months in implementing it, I have concluded that the United States fails to achieve its many economic and social goals because of excess regulation. While this is clearly obvious to most people, the impact on small businesses is often not fully appreciated by lawmakers, particularly whenever new laws (and subsequent implementing regulations) are created. I would like to list some personal experiences and observations, for what they are worth, in underlining this problem.

CAPITALIZATION: Our company's first product opportunity required the development of a new integrated circuit, one which required more than a third of a million dollars in development funding. Having only an electronic design but no prototype, we struck out to raise private funding sufficient to qualify for an SBA loan. With only a business plan in place, we won a KTEC (Kansas Technology Enterprise Corporation) grant of $20,000; and, after months of effort and $100,000 in funds I personally raised, we finally were approved for an SBA loan through a new SBIC (Small Business Investment Company) recently established in Kansas. While this was a considerable amount of success, it required 221 pages of SBA loan approval documents, nine months of work, and cost thousands of dollars in legal and loan origination fees. In addition, I was required to pledge all my stock in the company and assume full personal responsibility for the loan. While loans in startup companies are fairly high risk ventures, we had secured a purchase agreement with our established joint venture firm who pledge to provide two years of purchases of our product which had already been requested by major international clients. In short, the trip to the SBA watering hole was an extremely arduous one, and one which, as a small business owner, I would think twice about doing again.

CORPORATE FORMATION: The process of establishing a corporation goes far beyond the basic business decisions most entrepreneurs must face (Type of product or service? Adequate market? Financing sources? Business structure?). In setting up TensorTech, I found it necessary to compile a checklist from a number of publicly and commercially available sources because of the extreme complexity of the regulatory system. This checklist (see attached) remains incomplete because I became so involved in trying to accomplish major items while ensuring my business didn't collapse that I have yet to get back to organizing and completing it. As an example of some of the legal requirements with which we were forced to comply, there are at least nine Federal forms and six State forms which must be filed as frequently as monthly. There are six corporate numbers which were required to be obtained (State Charter No., IRS Employers ID No., State Employer ID No., State Retails Sales Tax No., State Unemployment Account No., and local bank account no.); and there were numerous sources of regulations which had to be investigated to avoid penalties for failure to comply (OSHA, IRS, EPA, State Dept. of Revenue, Dept of Human Resources, Dept. of Commerce, Dept. of Health and Environment, Secretary of State, et al.). As an individual who has three degrees including an MBA, I find the amount of Federal and State regulations to be overwhelming, so much so that it is a major deterrent to operating a small business. Moreover, the legal liabilities that one assumes in taking on a small business (many of which are unknown to the owner until an unfortunate accident or investigation occurs) can be enormous. In short, the biggest enemy to starting and operating a small business in the United States is government.

LEGISLATED COMPLIANCE: A minute but pointed example of the extremes to which government has gone to ensure individual rights are protected is evident in the requirement to prominently display posters in the business place. As a three person company with three small basement laboratories, TensorTech, to the best of my knowledge, is required by law to display at least seven posters (example is attached): Equal Opportunity (SBA), Federal Minimum Wage (Dept of Labor), Job Safety and Health Protection (Dept of Labor), State Notice of Unemployment Insurance, State Human Resources Certificate, State Employers Withholding ID Certificate, and State Sales Tax Registration Certificate. First, it seems ludicrous that a company which only has one name must have a half dozen different ID numbers (only one of which is probably unique in the U.S., the FEIN). Second, it hardly seems necessary nor cost-effective to government to produce, distribute, and enforce laws or regulations which require posters to be displayed! Most employees could care less about such information and, if and when such information would be needed, could or should be able to obtain the information without

much difficulty. This is a very minor point; but it is indicative of the extreme to which Government has gone to control business by legislating administrative practices. Business has hundreds of regulations which do nothing to promote commerce, improve competitiveness, or enhance employees' well-being; yet each one, in one way or another, offers a punitive threat upon non-compliance.

NON-PRODUCTIVE REGULATIONS: The *purpose* of business is to provide a good or service to the market place. It is not to serve as a source of income or benefits to its employees, management or owners. That is not to say that income or benefits, safe working environments, skills enhancement and education, and other factors are not part of business; they are. But they are the *result* of business's ability to provide such advantages. American business, however, is consumed with copious amounts of laws and regulations which reverse this equation. For every new regulation, a compliance network must be established within house to evaluate, write rules, prepare compliance or performance documents, train and educate, punish or take remedial action, and, occasionally, defend the company in the event of non-compliance. Whether it be in-house resources, or attorneys and accountants paid to prepare documentation, the cost to business is enormous. As a small business, we have had to spend more than 5% of our available cash in the first six months in compliance activities. Were time to be considered, the number would more than double.

One example of how regulations consume resources lies in an SBA document entitled "Notice to New SBA Borrowers". In this eight page paper, we are advised that we must comply with Parts 112, 113, and 117 of SBA Rules and Regulations pertaining to non-discrimination (none of which I have seen nor, as an independent company and not an employee of the SBA, do I feel should be levied on businesses). Further, we are required to establish personnel records which satisfy the SBA and, in the event of a discrimination suit by an employee, are required to take six actions dictated by the SBA. We are given four Model Policy Statements to use and a 25-item checklist to follow for Equal Opportunity compliance. My question to the Government is: Why should I spend time developing technologies when clearly the Government views Equal Opportunity as a more important product? (This question, of course, must be slightly modified when OSHA or EPA requirements are discussed.)

If it is so important for Government to dictate how I run my business, then why doesn't it buy it and run it as a Government-owned corporation? Moreover, does Government work for me or do I work for the Government? I believe this a perfect example of where a constitutional right is translated through layers of bureaucracy into an unbelievable mass of regulations. It demonstrates how bureaucrats are oblivious to the problems they create when they write regulations. If there were only one bureaucrat writing regulations, business could tolerate it; however, it is the hundreds of such regulators who create such programs and rules without knowledge or concern of how they collectively add to the demise of business that cause such an overwhelming amount of cost and loss in productivity to business. It is my opinion that this is a major reason why 95% of new businesses fail and most American businesses do not successfully compete internationally.

AFFIRMATIVE ACTION EXTREMES: While in Korea, I served as the representative for the State of Florida, the Aviation Department for the City of Kansas City, Missouri, and several prominent Kansas and Missouri companies. I have continued to maintain a consulting company which to this day assists U.S. companies establish and conduct business in Asia. Each year I am required by the City of Kansas City, Missouri, in order to maintain my ability to serve as a consultant, to file an Affirmative Action questionnaire and a request to be exempt from the Affirmative Action Program (see attached). I am also required to file, as a one man consulting company, a statement as to my salary, which, in my opinion, has nothing to do with Affirmative Action and is an invasion of privacy. This is another example where the initial intent of legislating equal opportunity for all Americans has been distorted into costly administrative regulations at the lowest levels. It is a case where common sense has been lost along the regulatory process. Such regulations create nothing useful but merely generate disdain and disrespect for laws and our government - an attitude all too prevalent in today's society.

GOVERNMENT PROPOSALS: TensorTech, in a joint venture with a California medical research firm, recently submitted a Public Health Service (PHS) SBIR (Small Business Innovation Research) proposal to develop a new means to measure muscle damage, such as in back injuries. As this involved non-invasive human subject testing, a considerable amount of detail was necessary in describing the testing methods. Since the safety of subjects is at stake, such discussion is quite warranted. However, additional discussions were required to explain why women and/or minorities would or would not be excluded in any testing. In medical research, age, sex, and, occasionally, ethnic background, are clinical parameters which are specifically addressed either by exclusion or inclusion. It seems this PHS SBIR requirement is a typical example of how the political issue of sex, age, or ethnic discrimination has been artificially injected into a research evaluation process where it has no place belonging.

A second issue in this proposal process involves certain draconian requirements which are difficult for small businesses, particularly joint ventures such as ours, to accommodate. One includes the requirement for the principal investigator to spend more than 50% of his time on the project. In cases where two companies and several principal researchers are involved, a $100,000 project gets distributed very quickly over a number of people making it difficult for any one to be considered more than 50% employed (unless, of course, he wants to take a substantial pay cut). A second issue is the requirement to *exclusively* allocate the resources and facilities dedicated to the project by either or both of the companies. This is generally not feasible since small companies cannot afford such luxuries.

These requirements appear to be the result of past experiences where SBIR winners did not perform to expectations or violated the intent of the program, unintentionally or otherwise. However, as is true in most legislative processes, the end result was the creation of poorly considered requirements for which no one has the authority to waive when they are not applicable or when they unnecessarily hinder business in particular circumstances. In short, the Federal Government created a worthwhile program which, for once, was designed to foster innovation, create new economic activity through technology development, and help small businesses. Then it levied a long list of compliance requirements which make it extremely difficult for the small companies, which are supposed to be the benefactors of this program, to comply with.

1% LEGISLATION: Quite often a shady business practice takes on undue proportions to the extent that lawmakers feel compelled (or wish to seize the political opportunity) to remedy a 1% problem with more laws or regulations. A recent bill introduced in the Missouri legislature underlines this tendency (see attach article). The bill proposed that any business electing to go out of business would be required to submit an inventory of sale items to the State Attorney General's office. Other provisions required successive submissions if other items needed to be added or if an extension of the sale was needed. It also posed penalties for violations. The reason behind this bill was because some unscrupulous businesses would launch a Going Out Of Business sale only as a ruse to increase their monthly business volume. The bill is typical of both state and Federal lawmakers' tendencies to legislate everything from morals to business decisions whenever an inequity occurs. In this case, public opinion or local Better Business Bureau condemnation is a better solution than the proposed legislation which adversely affects an honest 99% and raises the operating cost of the state attorney general's office, not to mention lowering the taxpayer's bottom line.

SUMMARY

While a number of the above examples are state related issues, there are numerous corresponding examples which demonstrate the Federal tendency to legislate a solution to every conceivable problem. It is my opinion, and one which is shared by many to whom I have talked, that the legal structure in the United States is in need of a major overhaul. It is a patchwork of 100 years or more of legislation and increasingly complex opinions which have resulted in the U.S. being the most litigious country in the World. Laws are written for the "reasonably prudent individual"; yet no one, including the most

experienced judges, fully understand or are aware of *all* the laws under which we are obliged to live. It is a common opinion that the only winners in the legal system are the lawyers who smile daily on their way to the bank. It is also felt that laws are the only significant bargaining chip that politicians have to offer for their political fortunes. Therefore, as a matter of survival, they write laws to benefit local constituents, bring in government money to their states or districts, and appease special interest groups. Laws are therefore often negotiated to a "winnable" form instead of the best language; and they are often created without consideration of the downstream ramifications. But whatever the situation, it remains a fact that America is drowning in laws and regulations, bandaids upon bandaids of legal remedies to every conceivable error which has been or may be committed.

RECOMMENDATIONS

As American businesses have come to re-engineer themselves in the face of international competitiveness, I believe it is time for Government to do the same - not just by downsizing obese bureaucratic agencies and unjustifiable organizations, but by starting from the beginning and evaluating where it is going in the very long term and how to get there. Therefore, I believe the following steps need to be taken as a measure of change to political methods of doing business and to the direction the United States is headed:

NATIONAL GOALS: America has never been a country possessed by the concept of very long range planning. Yet, as the only country in history which has rebuilt its defeated enemies into major economic powers, the World needs us as a strong economic, military, and political power. It can trust no other country to be the benevolent protectorate of freedom and democracy. We cannot serve that leadership role when we internally cripple ourselves with stifling laws, regulations, and taxes. We need to establish goals as to where we must be by the end of the 21st century, not five or ten years from now but fifty and one hundred. And we need to establish objectives as to how that is to be accomplished.

REBIRTH OF JUSTICE: Congress needs to orchestrate a national movement to review, purge, and rewrite the U.S. Code. This long term (presumably ten-year) project is necessary to reduce the unnecessary complexity and litigiousness that exists today in our legal system. Laws should be written to protect, not to intimidate, the just. Ours seem to discard common sense in the interest of incomprehensible, convoluted legal verbosity where precedence and future potential implications take priority over fairness and justice.

CONGRESSIONAL PURPOSE: Congress also needs to evaluate itself and its purpose in the American system of government. Over the last fifty years, it has taken upon itself the responsibility to be the provider and protector of the people. Its infamously poor job in doing this has created more homeless, more one parent families, and more welfare dependent people than this country should be ashamed to admit to and can certainly economically support. It has created a lack of responsibility in too many who hardly work and a frustration in too many who work hard. It needs to quit creating more programs and spend its energy trimming Government down to only those programs which give Americans the opportunity to help themselves.

REGULATION: Congress needs to take an entirely different perspective on lawmaking. First, it must recognize that every law it creates has, to some degree, a negative trickle down effect. Anything that requires compliance results in additional costs, lower productivity, reduced competitiveness, and probably fewer jobs. Every dollar taken away from business, through the multiplier effect, reduces the strength of the economic engine. Market processes are usually better means to control out-of-balance conditions than legislative actions. I would like to see every Congressman and Senator, whether individually or in teams, go through the process of setting up, activating and dismantling a fictitious small company in their own state. This would have several benefits: 1) It would take them out of Congress for six months which might be beneficial for all of us; 2) It would clearly demonstrate to them

how laws translate into regulations and regs translate into inefficiencies in commerce; and 3) It would give them an idea of what they and America should be doing and how it should be doing it in the next millennium.

TAXATION: As the most dreaded of all legal instruments, taxes hold the power to destroy. Congress has created a system which changes annually, supports an ever-growing list of programs with an unquenchable thirst for tax dollars, and is understood by few people, including IRS agents empowered to enforce it. It needs to make major reductions in taxes, eliminate the vast majority of tax laws, and cut Federal programs to live within the revenue streams created. It also needs to recognize that business is the engine of capitalism and democracy. Without a prospering business environment, jobs, wages, and well-being of the workers are at risk. Congress needs to quit being the enemy of business and become its partner. Together they need to create a stronger America.

INTERNATIONAL BUSINESS: Few American companies pay homage to the process of international business. Fewer still know how to conduct it. And, if international economic policy is any indication, fewer still in Congress seem to know or care about this growing realm of importance. While America is one of the most favorable places in the world to develop business, its trading partners offer extremely hostile environments to our products. As an example, while we import some 400,000 Korean cars per year, Korea subtly prevents foreign importation of American cars to where only 400 are sold in its country each year. Congress needs to spend more time on opening foreign doors and less time on creating social give-away programs. Its focus should be on assisting business grow and letting the benefits of economic growth naturaly flow to the social sectors. The international market will become the road to world economic preeminence, and the United States should be the one to hold that position in the 21st Century.

I wish to thank Congresswoman Jan Meyers for her interest and dedication in receiving me and my colleagues on this important issue. I will be happy to provide any further information on my experiences both foreign and domestic, if required.

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Don and Linda Sladek, Owners
15805 E. 24 Hwy.
INDEPENDENCE, MISSOURI 64050
Phone: (816) 833-3555

Coast to Coast.

America's Locally-Owned, Nationally-Known TOTAL HARDWARE Store.

April 25, 1995

Honorable Senator Jan Meyers
Chairman Committee on Small Business
2301 Rayburn House Office Building
Washington, DC. 20515-0315

In 1982 as owners of the Coast to Coast Hardware Store in Independence Mo. we began to formulate a five year plan to expand into an exsisting building or find some property and build in a new location. After careful consideration we chose to relocate and build. Once we located the property we contacted the Centerre Bank of Independence which is now Boatmen's First National Bank of Kansas City Mo. and discussed our plans with them for a loan to complete the project.

In 1986 we hired an architect for our building plans with building to start in 1987. The building plans were formulated and we again approached the Centerre Bank about our financing. Everything seemed to be in place ready to go with the project. Then on a Friday afternoon before the construction was to start the next Monday the bank called and said the project was too close and they were'nt going to finance the loan.

At this point it became necessary to find new financing. After talking with several other financial institutions to no avail, a family member informed us of a new type of SBA loan called a 504. He told us to contact Guaranty Bank & Trust in Kansas City Kansas. We contacted Mr. Gary Thomas at the bank on a Thursday. The following Monday Mr. Gary Thomas and Mr. Mike Johnson the President of the bank came to our store in Independence and fully explained the 504 program to us. They reviewed our plans and financial information and felt the 504 loan program would fit our situation.

The bank contacted Rural Missouri Inc. in Jefferson City Mo. the SBA agent, and a meeting was scheduled with one of their represenatives. The loan process was put in motion.

We found Guaranty Bank and Rural Missouri Inc. to be very knowledable of the loan program and thorough about the paperwork involved, most of the information needed was obtained at this meeting. They told us approximately how much time was necessary for them to approve the loan and complete the paperwork. We found this to be very accurate and everything was in place in six weeks to start our building construction.

I feel the 504 program is a real benefit to the economy and the community where these businesses are located. They generate tax revenue and employment. A business such as ours tends to serve and help the community with their particular needs because we offer more services than the larger stores.

Coast to Coast.

America's Locally-Owned, Nationally-Known TOTAL HARDWARE Store.

At this time we aren't aware of any businesses in our community with a 504 loan and do not know of anyone refused of this program.

We feel the 504 program to be a very sound program, possibly there needs to be more communication to make small businesses aware of this type of loan.

Without the help of the 504 loan program our business wouldn't be in a new location today, and quite possibly we might not even be in business or severly restricted in how we are able to operate.

Every business needs to keep moving forward or they tend to disappear.

We appreciate the help Gary Thomas and Mike Johnson of Guaranty Bank & Trust and Rural Missouri Inc. were able to give us. It helped achieve a plan to move our family business ahead to be more competive in the market place today.

Cordially,

Donald L Sladek & Linda L Sladek

Don & Linda Sladek
Coast to Coast Store
Independence Mo.

Coast to Coast

A Butler® Building with a lot of assets.

PROJECT SCOPE

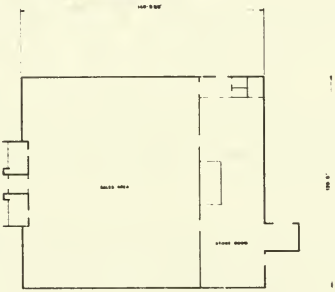
When Coast to Coast found it needed a new, larger facility, company officials turned to their local Butler Builder® for a construction solution. They would expect a lot from their new building. They wanted an attractive, cost effective, weathertight, architecturally pleasing building.

PROJECT SOLUTION

In cooperation with an architect, the Butler Builder in Blue Springs supplied Coast to Coast with an answer to its building needs. They chose a Delta Joist™ structural system with an MR-24® standing seam roof system from Butler Manufacturing Company.

The Delta Joist system offers a simple, economical alternative to traditional bar joist construction for load-bearing, concrete or masonry projects. Pre-punched trusses are assembled on the ground in 20 foot wide sections and then raised into position. It provides diaphragm bracing so you can take advantage of the MR-24 roof system. The performance of the MR-24 roof results from its ability to move with the forces of expansion and contraction. A unique clip with a sliding stainless steel tab allows the roof to move up to 2.5" as it reacts to daily and seasonal temperature changes. Six inches of fiberglass insulation were used to help insure thermal efficiency, and the 20 year weathertightness warranty offers the reliability needed.

The customer is extremely pleased that everything went so smoothly.



Coast to Coast, Independence, Missouri
140' x 120' x 16' Delta Joist™
MR-24® Roof System
Designer: Ramsey-Schilling Architects, Belton, Missouri

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WINSTON JOSEPH SOWERS, CPA, M.B.A.
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April 26, 1995

The Honorable Jan Meyers
Congress of the United States
House of Representatives
104th Congress
Committee on Small Business
2501 Rayborn Office Building
Washington, DC 20515

Dear Ms. Meyers:

I would like to thank you and the Committee on Small Business for this opportunity to express my opinions and experiences with the (SBDC) the Small Business Development Center. As you requested I will keep my comments brief.

We first became aware of the SBDC program through several "Getting Started in Business" seminars put on by both Rockhurst College and Johnson County Community College in early 1993 While I am a graduate of Rockhurst College and think very highly of their program, we decided to utilize the Johnson County Community College Small Business Development Center because it was closer to our office.

I first met with a Johnson County Community College SBDC Counselor, Trish Eisele in mid April 1993. The major problems we faced were similar to what a lot of new business's face: how to market and sell their services and how to identify target markets. Ms. Eisele helped us realistically evaluate our skills and areas in need of improvement. She also reviewed marketing plans and helped shape existing ones. Over several meetings she provided numerous suggestions to help direct our efforts and energies.

What impressed me the most about the services we received from the Small Business Development Center was that they were specifically directed to solving our real problems. Ms. Eisele forced us to set realistic goals and required us to do the majority of the work to realize the end result. The goal of the Small Business Development Center from the start was to develop our skills in those areas needing improvement to the level where we could solve these problems by ourselves and become self sufficient in these areas. In a sense what the Small Business Development Center provided us was a hand up, not a hand out and this, I feel, is their most effective function.

Having recently started my own business I understand why it is easy for start-up small businesses to underestimate the amount of time, commitment and ability necessary to successfully survive and prosper in today's environment. Having to operate all facets of your business with only yourself and your family can be an overwhelming task Often small business owners have neither the cash flow nor the inclination to utilize paid professionals to help them with their many start-up problems and questions.

As a result it is easy to dig a hole too deep to get out of before seeking help or spend months or even years working out of problems that could have been avoided or minimized with early adequate direction. Thus businesses fail and employees are laid off due often to avoidable blunders by owners. This is an area where the Small Business Development Center provides essential services by training people to operate their businesses in an effective and capable manner avoiding those precarious setbacks during the first critical months and years of operation.

If I were to suggest improvements in the program it would only be to expand its scope to be able to offer more assistance and direction to start up businesses and to let more people know of its programs Perhaps charging program participants a small nominal fee for the SBDC services such as ten or fifteen dollars an hour for consulting could help defray some of the costs and not cause a major hardship to the participants.

We received excellent assistance from the SBDC program and credit the help of our SBDC counselor Trish Eisele for a significant part of our success to this point. I feel it is a useful program that more than pays for itself by developing successful business people.

Thank you again for this opportunity.

Sincerely,

Winston Joseph Sowers, CPA, MBA

Testimony of
Donald E. Stevenson
District Manager, Region 0709
Service Corps of Retired Executives

Representative Meyers, my name is Don Stevenson and I am a member of the Kansas City Chapter of the Service Corps of Retired Executives (SCORE) and District Manager of the Kansas City District of the SCORE Association.

Thank you for this opportunity to testify. The SCORE members of Kansas and all other states appreciate the support that has been given by you and the House Committee on Small Business over the years.

As you know, SCORE is a non-profit association of retired men and women who volunteer their time and expertise to assist new and existing small businesses. SCORE members provide a variety of services including:

* We counsel people who are thinking of going into business.
* We counsel existing business owners who have specific problems.
* We help people to recognize when they are not properly prepared to go into business.
* We help people by using our considerable networking skills.
* We use our experience to help entrepreneurs plan and review their overall operations.
* We assist separated military personnel and people displaced in the private sector to consider small business as a career alternative.

SCORE Chapter 19 is located in Kansas City. During fiscal year 1994, the chapter had 86 members who volunteered 5,359 hours in support of small business. SCORE counseled 1,310 individuals and businesses in Kansas City and provided 26 workshops to another 678 people.

Nationally, SCORE has 384 chapters and over 12,700 members. SCORE volunteers assisted over 330,000 clients and gave over 1.1 million hours of support to the small business community last year.

SCORE is funded in large part by the Federal government, but the cost to the taxpayer is kept to a minimum. For fiscal year 1995, Congress provided $3.25 million, which -- when divided by the 1.1 million hours provided by SCORE volunteers -- works out to less than $3.00 per hour. That is less than the minimum wage for highly specialized expertise to small business people.

SCORE spends only 8% of its total budget on administration with the rest of its funds going to program outreach.

The down sizing of the Small Business Administration is providing new challenges to SCORE and putting added pressure on its appropriation. The most recent announcements of SBA Branch and Point of Duty closing may result in many SCORE chapters losing office space. Other support services such as utilities, telephone and postage costs may also be in jeopardy in those areas vacated by the SBA. SCORE no longer gets free publications to distribute to its clients, which creates a potential new cost.

Mrs. Meyers, I hope that you can help small business in America by continuing SCORE's small appropriation.

For fiscal 1996, SCORE is requesting that Congress provide $3.25 million and earmark it for SCORE as a part of the appropriation of the Small Business Administration, as it has done in past years.

Thank you for allowing me the opportunity to testify

Testimony of Linda Gill Taylor[1]
President, Of Counsel, Inc.

I am providing this testimony from two perspectives, that of small business owner and also that of a community business leader.

Personal Perspective

As a small business owner, I would like to address several issues which either currently have or prospectively could have negative impact on our business.

Of Counsel, Inc. is a specialty legal temporary service, providing attorneys and paralegals on a temporary basis to corporate law departments and law firms. We started in 1988 as two lawyers with a then radical idea and, fortunately, a banker who knew us and knew that, even though it was a new idea, we as individuals were good credit risks.

Seven years later we take pride that we have retained our boutique, specialist, high-quality orientation in a middle-sized market but nevertheless have grown to a company with over a million in sales and employment or contract opportunities for 75 persons in 1994. Our growth has been measured and sustained, and we have financed it with profits and cash from operations along with our line of credit from a regional bank. We also take pride in our family-friendly workplace and in the fact that we all volunteer and contribute much to our community.

Although businesses like ours don't grab headlines, we know that there are many businesses in the United States like ours - small, local/regional, and growing surely and steadily, financing their growth with traditional sources of capital.

Of Counsel was founded as and remains a subchapter S corporation. The cash required every quarter and year to pay individual taxes at high invidual tax rates reduces the internally-generated cash available for expansion of technology and staff. The negative impact of invidual tax rates on business growth cannot be overstated.

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[1]Chair, Metropolitan Entrepreneurs Council of the Greater Kansas City Chamber of Commerce
Member, Board of Directors, Greater Kansas City Chamber of Commerce
Member, Board of Directors, The Center for Business Innovation
Chair, Investment Committee, The Seed Capital Fund for Women

Additionally, the constant changes in and needless complexity of the payroll tax deposit system make our business life harder. We have been required to change timing of deposits every year or every few months in some years. With different state and federal requirements, along with differing state employment security reporting and requirements, the number and frequency of reports and payments is cumbersome and costly.

Although we are not a highly-regulated business currently, the regulation of the temporary services industry is something which is being more frequently discussed. This issue should be dealt with from a position of information not media hype. Our experience is that in order to compete in attracting and retaining high-quality temporary employees to serve and retain clients, temporary services companies have created benefit packages and programs very much like those of permanent employers. Temporary employees in many cases have the same benefits available to them as permanent employees but the media persist in making it appear than the temporary worker is abused by publishing horror stories and by not publishing the stories of those employees who chose temporary work because their permanent employment was not family-friendly enough. Any Congressional or regulatory review of this issue should look at the realities of the marketplace and the data, not the hyperbole of the media.

Community Business Concerns

As Chair of the Board of Advisors of the Metropolitan Entrepreneurs Council, I would like to support the comments of Al Martin, Bill Ward and Dennis Parker, all members of the Board of Advisors, as to the tax issues they raise.

The MEC Board of Advisors represents the approximately 2700 small business which are members of the Greater Kansas City Chamber of Commerce. Approximately half of the companies represented on the MEC Board are subchapter S corporations, and their concerns mirror those I have expressed personally.

Further, I would also like to convey the sense of the MEC's discussion regarding the SBA and whether it should continue in its present form or whether it should be "privatized" or eliminated. Our Board believes that just as there are certainly areas of activity for the SBA where economies could be achieved, there are also programs - such as the loan programs and the minority/women programs - which are returning a net benefit to our economy and should be retained. We encourage a cost/benefit analysis to determine which programs are profitable and which are not returning a sufficient economic or social benefit to justify the cost.

We sound a special note of caution with regard to women and minority business. It

is important not to sweep the SBA's profitable programs out in the frenzy of affirmative action backlash. In particular, the Microloan and SSBIC programs have special significance for Kansas City.

A SBA Microloan program has been successfully running at the Center for Business Innovation here for nearly two years. Loans are made in amounts of $25,000 and less to small companies in our metro area and in Missouri and Kansas. It has been very successful with $1.2 million loaned to date to 63 microbusinesses. These loans have created 186 jobs. The amount in default after two years is $1300.

Moreover, an application pends before the SBA currently for an SSBIC called Capital for Entrepreneurs, established by the Center for Business Innovation with funding from the Kauffman Foundation. If the license is granted, this SSBIC could grow from the $3 million granted by the Kauffman Foundation to potentially $12 million, all targeted for women and minority-owned business in seed stage debt and equity investments.

Over 300 applications for investment have been received since the original Seed Capital Fund was publicly announced last November. Currently there are investments reaching term stages in four to six companies with many more waiting for review. The deal flow from quality companies owned by women and minorities is accessed and stimulated by the presence of three Investment Committees comprised of women and minority business people and community leaders. This program has the potential to be a model for how an SSBIC should be structured and run, and one which is positioned for success. This program should be given a chance to succeed on economic terms before women and minority programs are eliminated and decisions are made about the SBA's continued existence.

Thank you for the opportunity to raise these issues of concern to small business in the metropolitan Kansas City area.

Thank you, Congresswoman Meyers and Congresswoman McCarthy for permitting me to appear before the House Committee on Small Business. I would also like to take this opportunity to congratulate Congresswoman Meyers for being the first woman to Chair the committee.

I am appearing today in the place of Tom Overby, Executive Director of Avenue Area, Inc., a bi-county Community Development Corporation (CDC) domiciled in Kansas City, Kansas, and covering Wyandotte and Leavenworth Counties. Tom is in San Francisco attending the National Certified Development Company convention.

Under Tom's direction, our CDC is one that goes the extra mile to assist Small Business Concerns (SBCs) as they attempt to work through the banking parts of the business. Guaranty Bank & Trust has an excellent relationship with Avenue Area Inc. as well as the other local CDCs serving our metropolitan area.

As Senior Vice President of Guaranty Bank, I have been involved with SBA lending for the past ten years. I have seen the quality of the service offered by the SBA improve dramatically. The quality of personnel in the local district and regional offices is outstanding. At the national level, I believe the SBA has made a commitment to develop new programs and revise existing programs to continue to assist the small business concerns compete in today's market environment.

I am a proponent of the SBA 504 lending program. We have had seven 504 loans approved of which we have funded six. In every instance except one, the small business concern did not have access to the capital required to complete the project without the assistance of the 504 program. Each of the SBC's were able to meet the equity requirement for the project but could not provide the 20% to 25% down payment necessary to finance the project in a conventional manner. The 10% down was the vehicle through which the SBC could finance the project.

The program as a whole is a "win-win" situation for all concerned. The SBC gets into its project with as little as 10% down and acquires a loan for 40% of the project cost at a favorable fixed rate. The bank acquires a first lien position in the project through its loan on the remaining 50%. The SBA wins by having exposure for only 40% of the project at risk through the debenture rather than the higher exposure if the loan was booked as a 7A loan with an 85% SBA guarantee.

In addition to the borrower and lender winning, the local economy wins because the business can remain local. Jobs are created because the business can expand. The local tax base improves as investments are made in the plant and equipment.

It is my opinion that the SBA could improve the 504 program with only a few changes. One of these changes involves the granting of increased underwriting authority to the more experienced CDC's. Under an arrangement similar to our bank's Certified Lender Program (CLP), the CDC could submit a 504 loan proposal to the SBA. As a certified lender, the bank does most of the underwriting and, in exchange for assuming a larger role in the credit analysis and structuring of the loan, the SBA provides the bank with a three day turnaround on credit approvals. I have recently become aware that a similar program known as the ALP program may be in line for the CDC's. I would encourage adoption of this program, as it could prove very beneficial to the 504 program.

A second suggestion is to relax the 51% occupancy rule for buildings being purchased by a small business concern. The justification for this suggestion is that many cities and even smaller communities have an inventory of existing buildings that could serve the needs of a small business, but because of the building's size, the SBC cannot meet the occupancy rule. I'm not suggesting this rule be relaxed throughout the entire system, nor do I support the use of SBA loans to fund passive investment activities, but perhaps the local SBA office could be granted the authority to allow a small business concern to purchase a building of which it will not occupy 51% initially but expects to grow into the space later. This type of incentive to use existing space could also help communities revitalize areas that would otherwise be overlooked in favor of constructing new space in suburban office parks.

I believe more lenders should use the 504 program as opposed to the 7A loan program for fixed asset financing. While it is easier for the lender to use the 7A loan program, it does not always best serve the needs of the small business concern. On occasion, the 7A is used due to the quicker processing time for the application through our CLP or PLP programs. The four to eight week approval process typical of a 504 loan can sometimes break a business deal. However, the 7A program uses congressionally allocated funds and its over-use can leave many deserving small business applicants waiting when the allocation is exhausted.

The above is especially true when the 7A program is used by non-bank SBA lenders to fund large real estate projects. These projects probably would qualify for funding through the 504 program, but the 7A is easier and the secondary market for the guaranteed portion provides additional profit incentive for the non-bank lenders. The small business concern usually suffers due to the maximum allowable rate normally charged by the non-bank lender, and the borrower incurs hefty documentation expenses, as most non-bank lenders use attorneys to document and close their loans. We participate in the loan program which works to the benefit of our customer, whether that be the 504 or 7A. Other lenders should be encouraged to do the same.

The 7A loan program has been very helpful to us and the small business community over the years. We have helped many small businesses get into business or expand an existing business through the 7A program. We presently have 47 borrowers through the 7A loan program, most of whom could not have qualified for financing through conventional means.

These borrowers have created or helped retain several hundred jobs that might not be there today without the SBA's assistance.

The Low Doc program has been a good program thus far. However, there is some confusion about its process in the small business community. Prospective borrowers truly believe that they can complete a one page application, turn it in at the bank and obtain an SBA loan. The prospective borrower does not always understand that the bank must ask for more information (such as financial statements, background information, projections and other related documentation) in order to make an informed credit decision. A Bank's files are subject to examination and must document the credit even though the information is not submitted to the SBA with the application.

Two general suggestions: The first deals with the borrower tax return transcript verification requirement recently implemented by the SBA. Many of my colleagues and I have found this regulation can unnecessarily delay the closing of an approved loan. Also, what assurances do we have that the same fraudulent tax return submitted to us was not also submitted to the IRS? I would recommend elimination of this requirement.

Secondly, lending guidelines contain a personal liquidity ratio limitation which stipulates that a prospective guarantor or business owner cannot have more than $50,000.00 in personal cash or cash equivalents, or an amount equal to twenty-five percent of the loan request, on his or her personal financial statement. If excess funds are available, the regulation states that it must be liquidated and put into the business, or the dollar amount of the application must be reduced dollar for dollar for that amount. This regulation has been in place for many years, but in today's environment, a prudent parent saving for children's weddings and personal retirement investments other than IRA's and 401K's can readily accumulate more than $50,000.00. Funds of this nature are not generally available, especially in the case of a passive investment in a family member's business. Perhaps consideration could be given to raising that limitation to $100,000.00.

Last, NAGGL has provided us with information on an initiative to "Reinvent the SBA" which involves the SBC and the lender paying increased fees for SBA guaranteed loans. I also understand the guaranty would be increased from the present maximum of $750,000.00 to $1,000,000.00

In this geographic area, most loans would not require a higher guarantee than $500,000.00. Possibly, the 504 debenture limit could be raised to the one million dollar figure and the 7A guarantee limit could be reduced to $500,000.00. This difference might provide additional incentive to place more long term fixed asset loans into the 504 program and preserve the allocation funds for loans such as working capital lines of credit and similar, more current funding needs.

I believe the fees discussed in the SBA restructuring proposal would prove to be an additional burden for the bank and the small business. I don't support the proposal to apply

the guarantee fee to the gross amount of the loan instead of the SBA guaranteed share. I also do not support raising the interest rate ceiling on 7A loans by 0.5% and charging an ongoing fee of 0.5% on the entire balance. I do not believe we need to add any additional costs to the borrowing than already exist. I realize most of the fees are financed in the loan package, but they still must be repaid and would add several basis points to the cost of the financing. Many of our smaller borrowers are feeling the squeeze from the recent round of Prime Rate increases and they would be further adversely impacted by the addition of these costs. While an increase in fees may mean a self sufficient agency status, decreasing the incentive to banks (especially CLP and PLP lenders) for small loans and dramatically increasing fees for large loans may actually discourage us from using the SBA program.

In summation, our bank has enjoyed a very good relationship with the local SBA office over the past twenty years. The assistance provided by the local District and Regional offices has been excellent and we see the Agency nationally as very progressive in developing new programs to assist the small business community as a whole. The caliber of personnel and quality of service locally has improved dramatically and we view our local office and its leadership as true partners with us in assisting small business concerns in achieving their ultimate potential. In an economy where big government regulation is everyone's concern, I can truly state that we believe in the SBA. It is a vital agency, focused on delivering products that enable small businesses to thrive in our local communities. It is a government agency that WORKS.

Thank you for the opportunity to comment on these very important matters.

To: The Honorable Jan Meyers
U.S. Representative Kansas 3rd District
The Committee on Small Business
Chairman

From: Chuck Vogt CEO,
All Star Awards & Ad Specialties, Inc.

Subject: Testimony focusing on small business concerns regarding owning, operating and starting a small business... Particularly Regulatory Burden

Date & Place: April 27, 1995 2 pm
Cultural Education Center at JCCC

BACKGROUND

All Star Awards & Ad Specialties, Inc. is an 18 year old, $2 million, women owned company with four locations throughout the Greater Kansas City area. We are a diverse company that employs 26 Teammates. Our primary products/services include awards; engraving; signage; ad specialties; flags/banners; imprinted items; screen printing and personalized gifts.

Since 1977, we have progressed through these stages...Survival - Liquidity - "Positive Growth" - and for the past 8 years...reasonably good ongoing profitability. While this "journey" has been filled with uncertainty, doubt and turmoil, it has been ultimately worth while since we have grown from less then eight people to 26 and from losing money to earning a fair return on our invested money and effort. Needless to say we have alao contributed in other ways such as vastly increased:

* Taxes (Local, State & Federal)
* FICA Contributions
* Sales Taxes
* Unemployment Taxes
* Not for Profit Support Contributions

<u>TESTIMONY</u>...Focusing on <u>Regulatory Burden</u>

I. My Beliefs

A. No government can create an ongoing sound vigorous economy through simply passing laws. And yet that seems to be the approach you have been taking particularly over the past 10 - 15 years.

It's as if by passing a law, you people (Presidential Appointees, Congress and Bureaucrats) believe you can legislate a sound economic environment through your increasingly oppressive regulations.

<u>Instead</u>...you should concentrate on "<u>Helping Create a Stable Positive Economic Climate</u>" so our "free enterprise/capitalistic system" can reach its ongoing potential.

B. Our <u>oppressive regulatory burden problems</u> are evidenced by the following...

1. "On the Surface" seemingly reasonable ideas become bureaucratically implemented unproductive, costly, economically repressive regulations.

2. Then as further "rules" change, we are depressed and uncertain as to what we should do regarding our:

a. Company
b. Employees
c. Ourselves

This makes it unlikely that we'll be optimistic about the future and therefore, less likely to take the "risks" associated with business ownership/"growth".

a. OSHA & EPA

   1) Material Safety Data Sheets Proliferation

   2) Marginal Personnel performing unrealistic inspections and imposing unrealistic fines

b. Affirmative Action Quotas

   1) Federal Direction has gone astray & "way too far".
   2) State and local bureaucrats then go even further along this unproductive path.

c. ADA

   1) Wheelchair accessibility

      a.) Buses
      b.) Businesses
      c.) Side Walks
      d.) etc.

   2) Signage

      a.) Braille
      b.) Letter size

d. " The Health Care Reform Cloud" was/is particularly depressing.

e. Product Liability Litigation (need tort reform)

f. Minimum Wage Tampering

g. Amount Social Security recipients can earn

h. Asbestos

i. Tax law changes and complexity

j. Welfare System

IN SUMMARY

What you have done knowingly, or unknowingly, is to encroach on our economic business "freedoms" in that a law/regulation may start out as a reasonable idea.

Business people and everyday citizens may or may not be allowed to participate. Typically our input is ignored as being selfish. So the law is passed the way the "staff bureaucrats" write it.

Then...a Bureaucrat adds to it...and being busy...we business people let it go. Then another Bureaucrat adds more to it and we let that go...

Only when the cumulative effect gets to be too much (too oppressive) do we start to fight it. Typically it is then too late and we either live with the oppressive unproductive regulation or we ignore it and feel guilty. Or we have to work very hard to get it rolled back to something more reasonable.

RECOMMENDATIONS

Place a moratorium on new regulations and initiate a TQM/Constant Improvement process to revisit existing laws/regulations so they help create an ongoing positive business environment.

Before laws such as the examples listed above-are passed and given bureaucrats to administer... take "time out" and ask these questions...

1. Do we really need it?

2. Does it really meet the test of reasonableness/common sense?

3. Have we done a cost/benefit analysis? And do the benefits clearly outweigh the costs involved?

4. If you were the business owner/manager... "would you be willing to work/own a business/grow a business operating under this law?"

Congress of the United States
House of Representatives
Committee on Small Business
April 27, 1995

Dan Wright, Mid American Signal

Since I started my business in 1980, the number of employees has grown from 1 to 5. This growth has been good for the most part, but the growth has created more paperwork and government regulations.

As a Small business owner with 5 employees, I have been involved with the various legal forms that the government requires. The latest of these is the 5500-CR form which is a form to report the employee benefit plan. To benefit my employees I started a 401K plan. This plan was designed to help them save money toward retirement so that they might not be dependent on Social Security. The 401 K plan was presented to me as the best way to help my employees save money for retirement. Starting the plan was a matter of filling out numerous forms making sure that all the forms met government regulations. **Then came the filing of forms.** My accountant would not touch the account because of the always changing regulations. I was left to find an organization that specializes in the administration of the profit sharing plans. This company charges over $1500.00 a year to provide my company with the properly filled out forms to keep the government from accessing me penalties.

Since there is no law requiring the small business employer to provide its employees with a retirement savings vehicle by offering this benefit my company incurs expenses and time consuming paperwork. On the other hand, it affords my competition, who does not offer a profit sharing plan, more time for sales and less overhead.

I have attached a compliance calendar that profiles the various forms and time frames that are now in affect for administrating the 401K plan.

It is my feeling that the qualified profit sharing plans (401K) are so confusing and complicated that most of the small business owners cannot afford to offer them. Leaving the Social Security System to bare the burden rather than giving the small business owner a cost effective means to offer a retirement plan.

Creating a profit sharing plan whereby the employee can save and the small business can afford to provide such a plan would be beneficial to the country, helping the individual and giving relief to the Social Security System.

EXHIBIT B
COMPLIANCE CALENDAR
Plan Year: January 1st - December 31st

REPORT or FORM	WHEN DUE	REPORT RECIPIENT
FORM 5500 Annual Report (Plan w/more than 100 Participants)	7 months after each Plan Year end	IRS. Copy to each Participant if requested in writing.
FORM 5500-C/R Annual Report (Plan w/less than 100 Participants)	7 months after each Plan Year end	IRS. Copy to each Participant if requested in writing.
FORM 5500-EZ Annual Report (Report filed in lieu of Form 5500-C)	7 months after each Plan Year end	IRS. Copy to each Participant if requested in writing.
Accountant's Statement (filed only with Form 5500)	7 months after each Plan Year end	IRS. Included w/Form 5500. Copy to each Participant if requested in writing.
Schedule A Insurance Information (Applies only to Plans in which any of the benefits are provided through insurance contracts)	7 months after each Plan Year end	IRS. Included w/Form 5500. Copy to each Participant if requested in writing.
Schedule P (Fiduciary Statement)	7 months after each Plan Year end	IRS. Included w/Form 5500.
Form SSA Statement of Terminated Participant w/Vested Interest (Applies only if vested Participant(s) terminated during prior Plan Year)	7 months after each Plan Year end	IRS. Participant affected to receive copy within 60 days following end of Plan Year in which 1-Year Break in service occurred.

EXHIBIT B
(Continued)

REPORT or FORM	WHEN DUE	REPORT RECIPIENT
Summary Annual Report (SAR)	9 months after each Plan Year end	IRS. Participants and Beneficiaries.
Form 1099-R (Recipients of distributions from Plan)	January 31st following Calendar Year of distribution	Participant receiving Distribution. Copy to IRS w/Transmittal Form 1096.
Form 1096	February 28th following Calendar Year of distribution	IRS.
Form 990-T (Unrelated business income of Plan's Trust in excess of $1,000)	By 15th day of 4th month following Plan Year end	IRS, w/payment.

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